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Number 314

JAPAN IN THE LEAGUE OF NATIONS

JAPAN IN THE LEAGUE OF NATIONS

BY
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To
MRS. GEORGE BILLER
GRATITUDE AND RESPECT

126450

PREFACE

As a student under Professor Joseph P. Chamberlain of Columbia University the writer wishes to express his inestimable debt to him for his constant instructions and detailed examination of the manuscript. The writer's thanks are due to Professor Parker Thomas Moon of Columbia University from whom he received the inspiration to begin this work. He owes much also to Professor Charles Cheney Hyde and Professor Philip C. Jessup of Columbia University. Acknowledgment is made of the invaluable suggestions of Dr. Iwao F. Ayusawa of the International Labor Office. The writer wishes to express his deep gratitude to His Excellency Mineichiro Adatci, Japanese Ambassador at Paris, whose distinguished service to the League of Nations and to his country has inspired the writer throughout this work.

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M. M.

NEW YORK.

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INTRODUCTION

IN the pages which follow the writer has attempted to discuss the position of Japan in the League of Nations represented by the official utterances of the Japanese delegates in the League of Nations Commission created for the purpose of drafting the Covenant and in the various organs of the League with the view of seeking the significance of Japan's Membership in the League.

As the sphere of the League's activity is extending as years go by, Japan's part in the League is accordingly enlarging. If one attempted to deal exhaustively with Japan's part in the activities of all the different organs of the League, he would find it necessary to consume thousands of pages. Even then he would find himself deeply dissatisfied.

With respect to Japan's relations with the International Labor Organization in particular there is reason to devote a volume exclusively to that subject. One of the officials of the International Labor Office has recently remarked that it was possible that a revolution might have occurred in Japan had she not been a Member and had she not faithfully carried out the principle embodied in the International Labor Organization at Geneva.

However, in view of the limitation of time imposed upon him the writer has been compelled to confine the scope of the subject to the activity of Japan in the League of Nations proper, the Assembly, the Council, the Secretariat and a few selected Committees and Commissions, excluding the International Labor Organization, the Permanent Court of Interna-

tional Justice, the Economic and Financial Organization and Conferences held under the auspices of the League.

While aware of the insufficiency of the materials at hand, the writer feels justified in having chosen the League of Nations proper as the subject of his study.

Without the Labor Organization and the Court, the League would be a less useful and a less satisfactory organization but there is no reason to suppose that it would not be in existence without them. On the other hand, it is difficult to conceive the existence of the Labor Organization without the League, and the Court is the very child of the League.

With regard to Japan is it possible to imagine that she would be taking such active part in various organizations within or without the League had she not been a Member of the League? In fact, Japan's participation in the Labor Organization, the Court or any other organ connected with the League is to a large extent conditioned by her Membership in the League. It is the hope of the writer that some day he will be able to deal with Japan's activity in all the organs connected with the League.

Never having visited Europe the writer had to rely for his information entirely on the written materials, particularly the official documents of the League available in the United States, more exactly in New York City. Therefore things which should be mentioned may be omitted while the things which are not important may be given an undue stress. No one else can be more ready than the writer to admit such a weakness.

However, the writer is not one of those who experience a peculiar pleasure in decrying the official utterances of the authorized agencies of the States represented in the League of Nations—on the contrary, it is his belief that the official statements of the representatives of nations which are printed in the official documents of the League mean something more

than a mere collection of words. They are, in the writer's opinion, the reflection of the desires of the nations represented in the League, the full expression of which is an indispensable condition for the satisfactory working of the League. Was not the ideal of Wilson, a father of the League, "Open Covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind, but diplomacy shall proceed always frankly and in the public view"?

PART I

CHAPTER I

JAPAN'S PART IN ESTABLISHING THE LEAGUE OF NATIONS

SUBMISSION OF PLANS

When the Armistice brought peace to the world on November 11, 1918, all thinking people in Europe and America earnestly sought to establish some kind of international organization in order to prevent a future catastrophe. There were formulated many plans for such an enterprise. With the aid of experts the Governments of most Allied and Associated Powers busied themselves in preparing draft constitutions of the coming world organization, which at the same time embodied the needs and ideals of their own countries. It was not until January 25, 1919, however, that the delegations of the Allies gathered in Paris for the Peace Conference officially agreed that "a League of Nations be created to promote international cooperation, to insure the fulfillment of accepted international obligations and to provide safeguards against war".¹

The Conference for this purpose appointed a Committee, later known as the "League of Nations Commission", "to work out the details of the constitution and functions of the League".² This Commission met for the first time in Paris on February 3, 1919. Mr. Wilson laid before the Commission the Anglo-American Draft for the Covenant which the Commission agreed to use as the basis for discussion, while

¹ D. H. Miller, *The Drafting of the Covenant* (New York, 1928), vol. i, p. 76.

Ibid.

M. Leon Bourgeois submitted the French Draft, and M. Orlando the Italian scheme.¹ It was the Japanese delegation alone among those of the Principal Allied and Associated Powers that did not present a draft. Baron Makino, chief delegate of Japan, stated at the meeting of the Council of Ten on January 30 that his Government was ready to associate itself with the work of "this very important organization", or the League, while admitting that his Government was "not in possession of any official plan of the organization".²

After the several drafts had been submitted by other Governments, the Japanese delegates proposed various amendments, some of which were of great importance. However, more significant is the fact that Japan did not prepare her own plan for the League of which she was to be an important Member, for it indicates the attitude of Japan toward the Peace Conference.

Although the Peace Conference was convened chiefly to restore peace in Europe, the League of Nations was intended to be "a general association of nations", especially in view of the fact that since Japan was the fourth of the Principal Allies and the first Power outside of Europe to enter the War, and her aid for the cause of the Allies was generally recognized, she could have properly presented her own scheme for the League. The reason for not having done so, therefore, must probably be found in the following consideration.

When Japan declared war against Germany on August 23, 1914, the Japanese Government made it clear that Japan entered the War because the action of Germany in eastern Asia had been threatening the commerce of Japan and her Ally and thus the peace of the Far East was in jeopardy.³

¹ Miller, vol. ii, p. 229.

² Miller, *op. cit.*, vol. ii, p. 201.

³ *World Peace Foundation Pamphlets* (Boston, 1917-1918), vol. i, p. 444.

This position was still maintained in 1918 when Viscount Motono, Japanese Minister for Foreign Affairs, declared at the assembly of both Houses of Parliament on January 22 that "our alliance with Great Britain always has been the fundamental basis of our foreign policy. It was, *above all things, the reason why Japan participated in this war.*"¹ In other words, Japan was participating in the War in order to maintain peace and order in the Far East.

Again in 1919 when Baron Makino was in San Francisco on his way to Paris, he said: "We are on our way from East to West seeking to assist our friends to conclude a just and honorable peace . . ." and declaring that the rumor of excessive Japanese demands which frequently appeared in the press was unfounded, he explained that "We are going to Paris first to take counsel and cooperate with our Allies and our friends."² Thus from the beginning of the War till the end the Japanese Government maintained that their real concern was the Far East and Japan was only "to take counsel and cooperate with" her "Allies and Friends" at the Peace Conference.

At the Peace Conference the Japanese delegates expressed themselves seldom except when the questions of immediate interest to Japan were discussed. They were "silent partners of the Conference" although they "never lost sight of a single angle in the discussion."³

In the League of Nations Commission the questions in which the Japanese delegates were active were disarmament, arbitration and racial equality, while as for the rest of the problems before the Commission they remained inexpressive. This attitude of Japan is of special interest, for, on one hand,

¹ *World Peace Foundation Pamphlets, op. cit.*, p. 445. Italicized by the author.

² *Japan Advertiser*, January 9, 1919, p. 1.

³ R. S. Baker, *Woodrow Wilson and World Settlement* (New York, 1922), vol. i, p. 145.

Japan is still taking a leading position in the questions in which she was active in 1919, and, on the other, along with the development of the League of Nations, Japan has been drawn into participation in European questions which are not of direct concern to Japan.

DISARMAMENT

The first problem in which the Japanese delegates showed an active interest was disarmament. There is no available document that refers to the part played by Japan on the disarmament question prior to the Fourth Meeting of the League Commission. The Fourth Meeting was held on February 3, 1919, when one of the important problems discussed was the disarmament clause of the Covenant. It was on this occasion that Japan made her contribution. In fact it is worth while to remember that among several proposals made by the Japanese delegates in the League of Nations Commission, the proposal on the amendment of the disarmament clause of the Covenant was the only one that was adopted, all the others being rejected. The disarmament clause in the Draft Covenant laid before the Commission for discussion on February 3, 1919, reads in part as follows:

The High Contracting Parties recognize the principle that the maintenance of peace will require the reduction of national armaments to *the lowest point consistent with domestic safety* and the enforcement by common action of international obligations; and the Executive council shall formulate plans for effecting such reduction.¹

Baron Makino proposed that the words "national safety" should be substituted for the words "domestic safety". With this substitution Article 8 of the Covenant was adopted.²

¹ Miller, *op. cit.*, vol. ii, p. 233. Italicized by the author.

² *Id.*, pp. 264-265. The English Minutes record that Baron Makino proposed this amendment, while the French Minutes and Miller's note show that Viscount Chinda proposed it. At any rate it seems certain that this amendment was proposed by one of the Japanese delegates.

This change of one word from "domestic" to "national" seems to be of significance, for the reduction of "national armaments to the lowest point consistent with domestic safety" strictly speaking would mean that national armaments are for police purposes only. Although Wilson used the words "domestic safety" in his Fourteen Points, it is doubtful whether the responsible statesmen of the Great Powers at the Peace Conference in 1919 did not see the possibility of future international war. If "domestic safety" had been retained in the Covenant it would have been agreed that national armaments should be reduced to the lowest point consistent with police purposes alone. Such could not have been the intention of the delegations, for it is unlikely that any Great Power would be willing to reduce its armaments "to the lowest point consistent with domestic safety" in its strict sense. If it had been forced to reduce its army or navy to "the lowest point consistent with domestic safety" under the provision of Article 8 of the Draft Covenant, and if such provision had been literally carried out, it would have been unable to safeguard its national safety against foreign invasions. If the world in 1919 was not yet free from the possibility of future war, armaments must be maintained on the basis of national safety. The Japanese amendment was in this regard not only a verbal improvement but a real contribution to the workability of the Covenant.¹

¹ Inasmuch as wars other than for "the enforcement by common action of international obligations" are permitted in paragraph 7 of Article 15 of the Covenant, to reduce armaments "to the lowest point consistent with domestic safety and the enforcement by common action of international obligations" may not be sufficient for the purpose of *national safety* in case of war permitted in paragraph 7 of Article 15 of the Covenant.

This amended paragraph 1 of Article 8 was cited by a Japanese delegate in subsequent disarmament negotiations at Geneva. At the thirty-third meeting of the Third Session of the Preparatory Commission for the Disarmament Conference on April 21, 1927, Mr.

ARBITRATION

Regarding the second problem, namely, arbitration, the Japanese delegates were not as successful as in disarmament. If the Japanese amendment on the disarmament clause was a success because the change from "domestic" to "national" made the clause more practical, the arbitration amendment was a failure for opposite reason. The arbitration clause submitted by Wilson to the League of Nations Commission at its first meeting on February 3, 1919, reads:

The High Contracting Parties agree that should disputes arise between them which cannot be adjusted by the ordinary processes of diplomacy, they will in no case resort to war without previously submitting the questions and matters involved either to arbitration or inquiry by the Executive Council three months after the award by the arbitrators or a recommendation by the

Rutgers of Netherlands proposed in effect that there should be an exchange of full and detailed information on war materials of the parties to the projected disarmament treaty. M. Sato, Japanese delegate, declared that his Government could not accept this proposal. When Mr. Rutgers reminded M. Sato that there was Paragraph 6 of Article 8 which, in Mr. Rutgers' opinion, required the League Members "to undertake to interchange full and frank information" on their armaments, M. Sato answered: "We are in agreement with the last paragraph of Article 8, and we agree to publicity, in so far as it is consistent with our national security, but it cannot alter the first paragraph of this article. The Covenant lays down the principle of disarmament, but it still allows us to defend ourselves. The principle of legitimate national defense is fully recognized by the League of Nations. This right being acknowledged, it rests with each country to provide the most efficacious means for its own defence. But security must be maintained in the case of measures taken with a view to a defensive war . . .". This view was favored by the French and the Italian delegates.

Aside from the merit of M. Sato's answer which was concurred in by two other Great Powers, it seems clear that M. Sato could not have invoked paragraph 1 of Article 8 to explain his country's position concerning a defensive war if it had read that his country would reduce her armaments to the lowest point consistent with domestic safety. C 310. M 109. 1927. IX, p. 304.

Executive Council; and that they will not even then resort to war as against a member of the League which complies with the award of the arbitrators or the recommendation of the Executive Council.

In any case under this Article, the award of the arbitrators shall be made within a reasonable time, and the recommendation of the Executive Council shall be made within six months after the submission of the dispute.¹

Baron Makino proposed to add the following words at the end of the second paragraph of this clause :

From the time a dispute is submitted to arbitration or to inquiry by the Executive Council, and until the lapse of the aforesaid term of three months, the parties to the dispute shall refrain from making any military preparations.²

Although it is known that there was a careful examination of this amendment by the Drafting Committee, there are no available documents that refer to the opinions of the members except those of Cecil Hurst and David Hunter Miller. Cecil Hurst, a British member, saw the possibility of including the Japanese amendment in some form, for during the discussion on this question Hurst handed a draft of a suggested substitute for the Japanese proposal to David Hunter Miller, the American member, which reads as follows :

The States Members of the League agree that from the time when a dispute is submitted to arbitration or to inquiry by the Executive Council and until the lapse of the aforesaid terms of three months, they will not, whether parties to the dispute or not, proceed to the mobilization of their forces or to make arrangements with a view to such mobilization.

¹ Miller, *op. cit.*, vol. ii, p. 330. The reference to the obligation not to resort to war against a member of the League which complies with the award of the arbitrators, etc. was omitted in Article 12 of the final draft : with this exception, Article 12 of the present Covenant virtually follows the language of the quoted provisions.

² Miller, vol. i, p. 392.

However, as Miller "was not in favor of the idea in any form", the Japanese amendment was returned back to the League Commission in its original form as "Article 12 A".¹

This question was discussed at the Fifteenth Meeting of the Commission on April 11, 1919. At that time Lord Robert Cecil called the attention of the Commission to the difficulties which might arise if the Japanese amendment were adopted, and said:

Such a provision would give an important advantage to such States as maintained their military establishment in a highly developed state. Should a crisis arise, the small and peaceful nations with a low military establishment would find themselves at a serious disadvantage if they could not make use of the period of three months in order to prepare a better defence against a nation with superior armaments and effectives.²

In reply to Lord Cecil's statement Baron Makino observed:

The whole spirit of the Covenant was opposed to the principle that nations might make military preparations in a crisis. If they should undertake warlike measures, a tense and anxious atmosphere would be created which would hardly conduce to a peaceful settlement. Moreover, if the nation whose military preparations were inadequate should augment them, the better armed nation would do the same and the discrepancy between the two military forces would remain the same.³

Upon this Lord Cecil, in defending his argument, imagined the following hypothetical case.

Suppose that an unscrupulous nation should be considering an attack against a neighboring State. She mobilizes all her troops, masses them on the frontier, and thereupon starts a dis-

¹ Miller, *op. cit.*, p. 395.

² *Ibid.*, vol. ii, p. 375.

³ *Ibid.*, pp. 375-376.

pute of a nature calculated to lead to a rupture. The dispute would then be submitted to arbitration, and while the case was being examined the aggressor State would have all its forces ready for action. On the other hand, the State which was threatened would not be able to take any preparatory measures. As far as Naval Power was concerned, a State might quite easily without violating Article 8 mobilize its fleet with a view to aggression.

Thus Lord Cecil concludes,—“The Japanese amendment would therefore seem to impose obligations too great for human nature and to put tremendous advantages into the hands of unscrupulous States.”¹ Lord Cecil was supported by Mr. Larnaude and Mr. Bourgeois of France, Mr. Vesnitch of Serbia, Mr. Reis of Portugal and Mr. Koo of China. Only Mr. Orlando of Italy favored the Japanese amendment by saying that “the Japanese amendment was unquestionably in harmony with the spirit of the Covenant”.² Mr. Wilson seemed to be on Lord Cecil’s side for he thought that the majority of the members would feel that “inconveniences which would arise if it were incorporated”, while, on the other hand, he admitted that he had “a sentimental interest in the Japanese amendment”. Since all the Powers were against the Japanese proposal except Italy, it was withdrawn.³

The reason for proposing such an amendment may be found in the following hypothetical case. In case of a dispute which would likely lead to war between Japan and a Power which is weaker and less industrialized than herself, this proposed provision would not have much effect, for Japan would not gain any advantage by refraining from military preparations during the period of three months in which the dispute is pending for arbitration. Therefore, the

¹ Miller, *op. cit.*, p. 376.

² *Ibid.*, p. 377.

³ *Ibid.*, p. 378.

expected advantages in this proposal, assuming that Japan had an interest of more than purely altruistic nature, must lie in the case of a possible dispute with a stronger and more industrialized Power. In the latter case the prospective disputant with Japan would not be able to utilize the three months' moratorium in changing peace industry into war industry. On the other hand, Japan, with her relatively undeveloped industry and relatively satisfactory armaments, would be strategically in a stronger position. Apart from such advantages to Japan, the Japanese proposal seems to be desirable for the purposes of arbitration. Should a dispute arise between Japan and one of the Great Powers and if both parties submit the dispute to arbitration or to the Council's inquiry, there would be two possible actions to be taken by the parties while the dispute is pending. One is that either or both of the parties mobilize their army and navy to prepare for a war. The other is that they refrain from such action. It is unquestionable that the latter is preferable to the former, for the former presumes the failure of arbitration, while the latter its success. If the parties in dispute are determined to settle their differences by a peaceful means and not by war, they must reject all warlike suggestions, until such method has proved itself to be a failure. For this purpose the Japanese amendment would have been beneficial.¹

¹ All Powers represented in the League of Nations Commission in 1919, except Japan and Italy, were either against or indifferent to the suggestion that the parties in dispute should refrain from military preparations during the three months' moratorium. In 1924 the Fifth Assembly of the League adopted the Protocol for the Pacific Settlement of International Disputes. Paragraph 1, Article 7 of the Protocol reads:

"In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will

RACIAL EQUALITY

Among the three problems in which the Japanese delegates were active, racial equality was the most important one. The Japanese proposal on the racial clause was said to be one of the most impressive proposals taken up during the whole Peace Conference. The untiring effort of the Japanese delegates, however, was fruitless in so much as it was not adopted as a part of the Covenant, although it was an achievement in showing the Peace Conference and the whole world the unanimous moral conviction of all Asiatic peoples. At the Fifth Meeting on February 7, this proposal was for the first time presented to the Commission by the Japanese.

The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord, as soon as possible, to all alien nationals of States members of the

they take any measure of military, naval, air, industrial or economic mobilization, nor, in general, any action of a nature likely to extend the dispute or render it more acute."

Apparently this imposes upon the signatories much more strict obligations than the Japanese amendment would have done. In spite of this fact, the Protocol including Article 7 was accepted without reservations by the delegates of Great Britain, France and other Powers who had been opposed to the Japanese amendment in 1919. At the twenty-sixth Plenary Meeting of the Fifth Assembly, on October 1, 1924, Lord Parmoor, first delegate of the British Empire, commenting on Article 7, said:

"It must not be forgotten, moreover, that in the event of a question arising under Article 7 of the Protocol as to whether any measure of military, naval, air, industrial or economic mobilisation, or any general action is of a nature likely to extend the dispute or to render it more acute, this question will come before the Council for examination; it then becomes the duty of the Council to determine whether any particular action which has been taken constitutes an infraction of the undertaking contained in this article. I do not think there is any risk of interfering with the action taken by any Government when such action is directed towards the purposes of the League." *Records of the Fifth Assembly, Minutes of Plenary Meetings*, p. 205.

This Protocol has not come into effect. However, the striking change of the attitude of European Powers deserves particular attention.

League equal and just treatment in every respect, making no distinction, either in law or in fact, on account of their race or nationality.¹

No official discussion seems to have followed the Japanese proposal. But from David Hunter Miller's Diary it is known that an interesting conversation took place between Colonel House and Balfour. David Hunter Miller, Wilson's legal adviser, writes in his Diary of February 9, 1919:

Colonel House called me in and talked to me about the Japanese proposal. While I was discussing it Mr. Balfour came in. There was a general discussion of the matter between Colonel House and Mr. Balfour. Colonel House handed me a pencil memorandum which he showed to Mr. Balfour, commencing with the proposition taken from the Declaration of Independence, that all men are created equal. Mr. Balfour said that was an eighteenth century proposition which he did not believe was true. He believed that it was true in a certain sense that all men of a particular nation were created equal, but not that a man in Central Africa was created equal to a European. Colonel House said that he did not see how the policy toward the Japanese could be continued. The world said that they could not go to Africa; they could not go to any white country; they could not go to China, and they could not go to Siberia; and yet they were a growing nation, having a country where all the land was tilled; they had to go somewhere. Mr. Balfour said that he had a great deal of sympathy with this view.

Colonel House instructed me to draft an amendment and submit it to him, and I drafted this amendment and submitted it to him later with a letter returning to him the papers which he handed me, of which I did not take copies.

So Miller drafted this clause pursuant to the instruction of House:

¹ D. H. Miller, *The Drafting of the Covenant* (New York, 1928), vol. i, p. 183.

Recognizing that all men are created equal, the High Contracting Parties agree that the Executive Council may consider any external grievance affecting the nationals of any of the High Contracting Parties, and may make such recommendations in respect thereof as are deemed equitable.

At the same time Miller wrote to House the following letter :

The trouble with the Japanese proposition is this : You presented to them a draft which I think sounds as well as anything that can be written.

This draft was not acceptable because it had, as you appreciated, no particular legal effect, because it was not intended to have any. Any draft which had a real effect would, of course, be impossible. I have tried my hand at another draft, which is enclosed. I do not like it because, while I do not think it binds any country to anything, it makes the general subject a matter of international cognizance, and I doubt very much if that result is or should be acceptable. The papers which you handed to me are returned herewith.¹

It may be noticed that, although the Japanese proposal was finally rejected by the Commission due to the determined objection of the United States and the British Empire, it is clear that these two delegates were apparently impressed by the Japanese demand. In fact, House actually attempted to have the proposal accepted in some form.

It was not until the Tenth Meeting of the Commission on February 13, however, that the Japanese proposal was again brought up. At that time the racial clause was presented in connection with the religious liberty clause. Mr. Wilson was always in favor of providing a clause for religious liberty in the Covenant. He was supported by Cecil, Larnaude, Veniselos, Vesnitch and many others. The text of the clause was submitted to the Commission as Article 21 of the Draft Covenant, which reads :

¹ Miller, *op. cit.*, vol. i, pp. 183-4.

The High Contracting Parties agree that they will not prohibit or interfere with the free exercise of any creed, religion or belief whose practices are not inconsistent with public order or public morals, and that no person within their respective jurisdictions shall be molested in life, liberty, or the pursuit of happiness by reason of his adherence to any such creed, religion or belief.¹

When Lord Robert Cecil as Chairman read the Article, Colonel House pointed out that President Wilson strongly desired the inclusion of this article in the Covenant. Thereupon M. Larnaude, French, remarked that there might arise some difficulties in including such a clause. In this connection M. Jayme Bathalha Reis, Portuguese, related his personal experience in order to show the existing relations between religion and race in Russia:

I lived for six years in Russia, in which the struggle was rather between races than between religions. Persecutions took place between two races: the Slavs and the Israelites. Many Israelites have submitted to baptism and become orthodox. Without wishing to offend the race, from certain points of view this race is inferior and is struggling against a superior race.²

The Japanese delegates probably saw that the situation was favorable for them to press the racial question. Baron Makino, seizing the opportunity, presented the racial equality proposal. He called attention to the fact that "racial and religious animosities have constituted a fruitful source of trouble and warfare among different peoples throughout history, often leading to deplorable excesses". Wishing that a provision would be made in the Covenant to declare the equality of races along with the freedom of religion, he proposed to add the following clause directly after the end of Article 21:

¹ Miller, *op. cit.*, vol. ii, p. 307.

² Miller, *op. cit.*, vol. i, p. 268.

The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord, as soon as possible, to all alien nationals of States members of the League, equal and just treatment in every respect, making no distinction, either in law or fact, on account of their race or nationality.¹

Admitting that "the question of race prejudice is a very delicate and complicated matter, involving play of deep human passion, and therefore requiring careful management," Baron Makino was not proposing "an immediate realization of the ideal equality of treatment between peoples". The proposition was meant to be "an invitation to the Governments and peoples concerned to examine the question more closely, and seriously, and to devise some acceptable means to meet a deadlock which at present confronts different peoples."² He called attention to the fact that in the last war different races fought together against the common enemy to attain the common cause, and also that under the Covenant a nation is obliged to defend others against external aggression. Baron Makino continued, "each national would like to feel and in fact demand that he should be placed on an equal footing with people he undertakes to defend even with his life".

Mr. Koo of China showed deep sympathy toward the spirit of the proposed amendment, although he reserved the right of discussion as he had not been instructed on the question from his Government. Lord Cecil remarked that as the question was of highly controversial character, it would be wiser for the moment to postpone its examination. As for the other members, most of them did not seem to be ready for discussion. Hence the racial clause as well as the religious clause were dropped from the discussion with the reservation that these questions might be raised again in the Commission.³

¹ Miller, *op. cit.*, vol. ii, pp. 323-325.

² *Ibid.*

³ Miller, *op. cit.*, vol. ii, p. 325.

While the Japanese delegates were waiting for another opportunity for raising the racial equality question, the Japanese Government tried to have an understanding with those Powers who had been opposed to the Japanese amendment. On March 4, 1919 when President Wilson was sailing again for Europe, Viscount Ishii, Japanese Ambassador to the United States, sent a note to the State Department in time for the President to receive it before he left.

The Japanese Government are much gratified to perceive the just and disinterested spirit in which the President is using his best endeavors to secure an enduring peace of the world. They also are sincerely grateful for the sympathy and support which the President and the American peace delegation were friendly enough to give to the proposition of the Japanese delegation on the question of doing away with race discriminations. In view of the fundamental spirit of the League of Nations the Japanese Government regards as of first importance the establishment of the principle that the difference of race should in no case constitute a basis for discriminatory treatment under the law of any country. Should this great principle fail of general recognition, the Japanese Government do not see how a perpetual friction and discontent among nations and races could possibly be eliminated. If such be the case, they are gravely concerned that the smooth functioning of the League of Nations itself will be seriously hampered. The Japanese Government are, therefore, disposed to continue their efforts for the adoption of this just and equitable proposition and they permit themselves to confidently hope that the President give further friendly support to them in this matter. As for the form and wording of the proposition, the Japanese Government have no intention to insist on the adoption of the original draft, and any suggestion from the President on this point will be entertained with great pleasure.¹

¹ R. S. Baker, *Woodrow Wilson and World Settlement* (New York, 1922), vol. ii, p. 236.

Again on March 14, when the Japanese Ambassador spoke on the racial equality question at the dinner of the Japan Society in New York, he emphasized that the proposed racial equality clause "in the Constitution of the League of Nations would not cause Japan to abandon her policy of restricting emigration to this country so that a problem of foreign labor might be given to this country for solution." Asserting the fundamental justice of Japan's demand for the equality of races, the Ambassador continued,—

It may be added in order to avoid possible misunderstanding that this question of straightening out the existing injustice of racial discrimination should be considered independently of the question of labor or immigration. The one is principally economical in its nature, while the other is essentially a question of sentiment, of legitimate pride and self-respect.¹

The last attempt for the inclusion of the racial equality clause was made by the Japanese delegates at the last meeting of the Commission on April 11. Toward the close of the meeting Baron Makino presented a carefully prepared statement on the subject. Baron Makino first reminded the Commission of the fact that he had already had occasion to bring the question of racial equality before the Commission. But since the subject was of such great concern to his country he wished the Commission to consider the problem under a different light. He thought that the sentiment of nationality, one of the strongest human feelings, had been aroused by the present worldwide moral renaissance and was at present receiving a just recognition in adjusting international affairs. If the League was to be established on the principle of justice to all peoples and nations, he thought it only reasonable that the principle of the equality of nations and the just treatment of their nationals should be laid down as a fundamental basis

¹ *New York Times*, March 15, 1919.

of the League. If the Commission failed to recognize this only reasonable demand, Baron Makino thought that many peoples who had reason to be interested in the subject would lose their faith in the justice and righteousness which were to be the guiding spirit of the Covenant. Therefore, Baron Makino asked the Commission to add the following phrase: "by the endorsement of the principle of the equality of Nations and the just treatment of their nationals" after the words "relations between Nations" in the Preamble.¹

Baron Makino, however, expressly stated that—"It is not intended that the amendment should encroach on the internal affairs of any nation. It simply sets forth a guiding principle for future international intercourse. The work of carrying out this principle comes within the indisputable competence of the proper authorities. . . ." ² Mr. Koo of China immediately declared himself heartily in sympathy with Baron Makino:

I should be very glad indeed to see the principle itself given recognition in the Covenant, and I hope that the Commission will not find serious difficulties in the way of its acceptance. I should like to have my statement appear in the Minutes.³

M. Koo was supported by M. Orlando of Italy, M. Bourgeois of France, M. Larnaude of France, M. Veniselos of Greece, M. Kramar of Czecho-Slovak Republic and M. Dmowski of Poland, who thought that it would be difficult to reject the Japanese proposal. Lord Cecil "regretted that he was not in a position to vote for this amendment," for—

the British Government realized the importance of the racial question, but its solution could not be attempted by the Commission without encroaching upon the sovereignty of States

¹ Miller, *op. cit.*, vol. ii, pp. 387-389.

² Miller, *op. cit.*, vol. ii, p. 389.

³ *Ibid.*, p. 391.

members of the League. One of two things must be true: either the points which the Japanese Delegation proposed to add to the Preamble were vague and ineffective, or else they were of practical significance. In the latter case, they opened the door to serious controversy and interference in the domestic affairs of States members of the League.

But he suggested that:

Japan would be permanently represented on the Executive Council and this fact would place her in a situation of complete equality with the other Great Powers. This being so, it would always be possible for her to raise the question of equality of races and of nations before the Council itself.¹

In answering Lord Cecil, Viscount Chinda explained that the Japanese delegates had not broached the question of race or of immigration. He asked for nothing more than the principle of the equality of nations and the just treatment of their nationals. If this amendment were rejected, it would be an indication to Japan that the equality of the Members of the League was not recognized and, as a consequence, the new organization would be most unpopular. "Public opinion in Japan was very much concerned with this question and certain people had even gone so far as to say that Japan would not become a member of the League of Nations unless she were satisfied on this point."² President Wilson felt

that the greatest difficulty lay in the controversies which would be bound to take place outside the Commission over the Japanese proposal, and that in order to avoid these discussions it would perhaps be wise not to insert such a provision in the Preamble. The equality of nations was a fundamental principle of the League of Nations. It was the spirit of the Covenant to make a faithful attempt to place all nations upon a footing of equality,

¹ Miller, *op. cit.*, vol. ii, p. 389.

² *Ibid.*, p. 390.

in the hope that the greater nations might aid the lesser in advantageous ways. Not only the Covenant recognizes the equality of States, but it lays down provisions for defending this equality in case it should be threatened.¹

As Baron Makino wished his fellow-members of the Commission to vote upon the question of the insertion of his amendment in the Preamble because the matter was so important to his Government, a vote was taken with this result: eleven votes out of seventeen in favor of the amendment (Japan, France and Italy, two each, and Brazil, China, Greece, Yugoslavia and Czecho-Slovakia). Although a majority voted in favor of it, it was rejected because Mr. Wilson ruled that unanimity was necessary for its adoption.²

Thus the Japanese amendment was definitely lost. But at the Plenary Session of the Peace Conference on April 28, expressing the regret of his Government at the decision of the Commission, Baron Makino declared that—

I feel it my duty to declare clearly on this occasion that the Japanese Government and people feel poignant regret at the failure of the Commission to approve of their just demand for laying down a principle aiming at the adjustment of this long-standing grievance, a demand that is based upon a deep-rooted national conviction. *They will continue in their insistence for the adoption of this principle by the League in future.*³

CONCLUSION

The only Japanese amendment accepted was that on Article 8, namely, the change from "domestic safety" to "national safety". The reason why this amendment was accepted while all the others were rejected lies in the fact that the adopted proposal was a conservative one and naturally agree-

¹ Miller, *op. cit.*, vol. ii, p. 391.

² Miller, *op. cit.*, vol. i, pp. 462-464.

³ Miller, *op. cit.*, vol. ii, p. 704. *Italicized by the author.*

able to all Great Powers regardless of racial or geographical differences, while the rejected ones were radical and idealistic in demanding a fundamental change from all independent states, in their political and moral relations. Nevertheless, the idea underlying the first of the rejected amendments, namely, the inclusion of the clause requiring the parties in dispute to refrain from military preparations, has shown an appreciable growth. The Geneva Protocol, which was adopted at the Fifth Assembly, for instance, requires among other things much more strict obligations than the Japanese amendment. Although this Protocol has not come into effect, there is every reason to hope that war-stricken Europe will make all possible efforts and sacrifices in order to find a satisfactory method of settling international disputes.¹

The other rejected amendment, the racial equality clause, suggests a totally different aspect. European nations are not the victims of racial prejudice. Asiatic nations, with the exception of Japan, and all other "oppressed nations" in Asia and Africa, are either dependent nations or else struggling to maintain their independence. It is Japan alone that enjoys a national prestige equal to that of the Great Powers in Europe, and is at the same time a victim of racial prejudice. Japan feels, therefore, that she has a particular interest in this problem. As Baron Makino expressly declared at the Peace Conference, the Japanese Government "will continue in their insistence for the adoption of this principle by the League in future", the subsequent chapters will prove the seriousness of his promise. Japan has been persistent in calling the attention of the world through the instrumentalities of the League to the fact that there is a grave and permanent problem in which Japan is vitally concerned and which the League has to solve some day.

¹ Cf. *supra*, p. 24. Cf. also Arbitration Convention between Germany and France (signed at London, December 1, 1925), Article 19.

PART II

CHAPTER I

JAPAN'S PARTICIPATION IN THE ACTIVITIES OF THE LEAGUE

INTRODUCTORY REMARKS

IT is one thing to draft a constitution and it is another to utilize it as machinery for governing the conduct of a body politic. We have observed in the preceding chapter that Japan took part in the drafting of the Covenant of the League of Nations. We have also observed that the Japanese representatives at the Peace Conference were active in some specific questions while they were "silent partners" in others. It remains to be seen how Japan has been and is taking part in the actual working of the League of which she was one of the creators.

Before going into the discussion of the participation of Japan in the League's activities, it is necessary to review briefly how the League is constituted and how it functions.

"The action of the League under this Covenant shall be effected through the instrumentalities of an Assembly and of a Council, with a permanent Secretariat."¹ Besides these three principal organs the Covenant expressly provides for the creation of a permanent commission "to advise the Council on military, naval and air questions generally"² and also of a permanent commission "to receive and ex-

¹ Article 2 of the Covenant.

² Article 9 of the Covenant.

amine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.”¹ These four, the Assembly, the Council, the Secretariat, the Permanent Commission on Armaments and the Permanent Commission on Mandates, are the only organs which are expressly referred to in the Covenant.² However, there have been created numerous commissions and committees in order to investigate and advise the Council and the Assembly on technical questions.³

The Assembly consists of the Representatives of all Members of the League, while the Council includes permanently the Representatives of five Great Powers, namely, the British Empire, France, Germany, Italy and Japan, with the Representatives of nine other Powers who are elected by the Assembly.⁴

The Secretary-General is appointed by the Council with the approval of the majority of the Assembly, and the Secretaries and staff of the Secretariat are appointed by the Secretary-General with the approval of the Council.⁵

The Technical Organizations and Advisory Commissions and Committees are appointed either by the Assembly or the Council by the majority of the Members of the League represented at the meeting.⁶ But in practice the members of some of these organizations are appointed by their own governments which have themselves been elected to the committees by the Council or the Assembly.

¹ Article 22, Section 9 of the Covenant.

² The Permanent Court of International Justice and the International Labor Office which are referred to in Article 14 and Article 23, (a) are regarded as independent of the League.

³ *Cf. infra*, chap. v.

⁴ Article 3, Sec. 1; Article 4, Secs. 1, 2, 2b; *cf. infra*, chap. iii.

⁵ Article 6, Secs. 1, 2, 3; *cf. infra*, chap. iv.

⁶ Article 5, Sec. 2.

Thus, although the final action of the League is effected through the Assembly and the Council, the real activities of the League are carried on not only by the Council and the Assembly, but by all the organs above mentioned.

Japan sends her nationals to most of these organs, either as her delegates or as experts on technical questions, according to the nature of the organization.

The functions and activities of these organs of the League will be discussed in the following chapters with special reference to the participation of the Japanese, for the League can act only through its several organs.

CHAPTER II

ASSEMBLY

IN GENERAL

STUDENTS of government are accustomed to view a political institution from the fixed angle of the "separation of powers" in national governments. The idea of the "separation of powers" necessarily implies that the powers delegated to each department of government should be defined. In this respect, the "Government" of the League, if this word may be conveniently used, is very different from ordinary national governments. The relations between, and the respective competence of the Assembly and the Council, the principal organs of the League, are purposely defined vaguely in the Covenant. Both the Assembly and the Council "may deal" at their meetings "with any matter within the sphere of action of the League or affecting the peace of the world."¹ The League being a new experiment undertaken by self-governing States, it is deemed proper and wise that the relations between the different branches of the League should be left loosely defined so that the League will find its own growth in the course of changing circumstances.²

¹ Article 3, Sec. 3; Article 4, Sec. 4.

² That the Covenant of the League was drafted in such spirit was well expressed by Mr. Wilson when he commented on the Draft Covenant which he read before the Plenary Session of the Peace Conference on February 14, 1919. He said in part: "I should say of this document that it is not a strait-jacket, but a vehicle of life. A living thing is born, and we must see to it that clothes we put upon it do not hamper it, a

While the exact relations between the Assembly and the Council are not defined in the Covenant, there are certain powers which the Covenant expressly confers on the Assembly and the Council, either exclusively on the one organ or concurrently on both. Those which are conferred on the Assembly are: 1. Admission of new Members to the League; 2. Election of non-permanent Members of the Council; 3. Making of the rules dealing with the election of non-permanent Members of the Council and the regulations as relate to their term of office and the conditions of re-eligibility; 4. Decision as to the proportion of financial shares of the League's expenses borne by the Members; 5. Consideration of international disputes after being referred to by the Council; 6. Advice on the reconsideration of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.¹

Besides these powers the Assembly may veto the Council's decision on naming additional non-permanent Members of the Council; it may approve or disapprove the appointment of the Secretary-General by the Council; it may refer international disputes submitted to it, to the Permanent Court of International Justice for an advisory opinion; it may amend the Covenant if such amendment is approved by all Members represented in the Council, although in this case the Covenant expressly provides that a ratification by a majority of the States Members is necessary.²

When we consider these numerous powers delegated to the Assembly along with its broad and important power to vehicle of power, but a vehicle in which power may be varied at the discretion of those who exercise it and in accordance with the changing circumstances of the time...." Miller, *op. cit.*, vol. ii, p. 563.

¹ Article 1, Sec. 2; Article 4, Sec. 1; Article 4, Sec. 2b; Article 6, Sec. 5; Article 15, Sec. 10; Article 19.

Article 4, Sec. 2; Article 6, Sec. 2; Article 14; Article 26, Sec. 1.

“ deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world,” and also the provisions in the Covenant regarding the membership of the Assembly, we are led to the conclusion that the Assembly is very much like the legislative department of a national government. It is true, as has been explained, that the relations between the Assembly, which is like a legislature, and the Council, which resembles the executive, are, unlike most of the modern constitutional governments, not well defined. On the other hand, the Assembly has the power to control the budget of the League. It has a certain amount of control over the Council by electing the latter’s non-permanent Members and prescribing rules as to the procedure of such election. Its Members represent the whole body of the League. Such characteristics are usual attributes of national legislatures. Moreover, as will be seen later, the Assembly in its meetings discusses international problems, and drafts conventions and treaties to be ratified by the governments of the Member States, or makes to the Council on certain matters recommendations which it thinks proper and advisable. Such functions are somewhat like those of national legislatures in their relations to the executive.

Then, is the Assembly the legislative department of the League?

Before answering this question it is necessary to consider the provisions of the Covenant concerning the nature of the Assembly.

The act of ordinary legislation in all constitutional governments, as far as the legislatures are concerned, is normally effected by a majority vote; and usually having passed the legislature by a majority vote a bill becomes a law when it is approved by the chief Executive. But the decisions of the Assembly require a unanimous vote of all Members repre-

sented except where expressly provided to the contrary in the Covenant or in the treaties which the Members have previously agreed to. And even after a unanimous decision has been reached by the Assembly it cannot bind the Members until it has been ratified by the home governments whose Representatives constitute the Assembly.¹

The sole exception where the Representatives in the Assembly may give legal effect to the contractual relations of the States Members by a majority vote, is with reference to the amendments to the Covenant. But in this case a unanimous vote of the Members represented in the Council is required, and such amendments will have to be ratified by the home governments. Moreover, even after the amendments have been effected they cannot bind any Member of the League which signifies its dissent, although in that case that State will cease to be a Member of the League.²

If, except where provided to the contrary, the Assembly cannot make a decision except by a unanimous vote and its decision cannot bind the Members in itself, the powers delegated to the Assembly Representatives in their maximum may be said to be closer to those of plenipotentiaries in ordinary diplomacy than those of legislators. Thus the Assembly can in no sense be understood to be the legislative branch of the League.³

Is the Assembly merely a "debating society" of nations? It resembles a debating society in the sense that its action cannot bind the home governments of the Representatives. But a closer examination of the records of the Assembly shows that the Assembly is much more than a debating society. The Assembly when it meets annually first divides

¹ C. Howard Ellis, *The Origin, Structure and Working of the League of Nations* (Boston, 1928), pp. 137-139; Article 5 of the Covenant.

² Article 26 of the Covenant.

³ Charles Cheney Hyde, *International Law* (Boston, 1922), vol. ii, Secs. 510, 511.

itself into six committees, and further into sub-committees. These committees seriously and laboriously examine and discuss international problems of first magnitude. Not infrequently their deliberations result in protocols or draft treaties of first-rate political importance, as was the case with regard to the Geneva Protocol and the Draft Treaty of Mutual Assistance.¹

Then, what is the Assembly? The nature of the Assembly can be understood through reviewing its chief function.

The chief function of the Assembly is to provide an opportunity for the full expression of the wishes and ideals of all Members of the League with a view to finding co-operative policies acceptable to all Members as the guiding principles of mutual relations among the Members of the League. In the Assembly the Members find their proper opportunity to suggest or propose anything which they believe advantageous to themselves or to the world as a whole, only within the limitation of the rules of procedure of the Assembly. Some suggestions, such as that to teach Esperanto as the auxiliary international language in the countries belonging to the League, with the support of the League of Nations, come before the Assembly but do not take any concrete form.² Other suggestions, such as that to outlaw aggressive war, invite serious consideration of all Members of the League and thus result in definite protocols or draft treaties.³

Admission of new Members to the League, election of non-permanent Members of the Council, control of the League's budget, advice on the revision of treaties, and amendments to the Covenant, all these powers specifically delegated to the Assembly may be said to be related to the

¹ Cf. *infra*, pp. 61-75.

² *Minutes of the Plenary Meeting, Second Assembly*, pp. 218-219.

³ Cf. *infra*, pp. 61-75.

foundation and the development of the League rather than to its actual operation with respect to international questions which arise from time to time, because these powers are not of such nature as to be exercised to meet emergent occurrences, but are rather concerned with the fundamental principles of the League. Thus, the Assembly has been found to be unsuited to act as a mediator in international disputes which demand quick judgments and immediate actions rather than careful considerations of principles and remote possibilities.¹

From such considerations, while admitting the existence and usefulness of other functions of the Assembly, it may be fairly concluded that its chief function is to seek principles by which the course of the League is to be guided and to formulate policies which the League Members are jointly to undertake.²

With what technique does the Assembly function?

¹ This generalization is not applicable to all cases. In the Corfu crisis between Italy and Greece the Assembly demonstrated its particular usefulness. But such occasions are rare, and the fact that the Assembly has not exercised its power to refer international disputes to the Permanent Court of International Justice indicates the approximate correctness of this generalization.

² Pitman B. Potter says: "The Assembly represents the League in principle, the Council the League in fact—a curious mixture of cooperative world administration and of competitive international diplomacy."

P. B. Potter, *An Introduction to the Study of International Organization* (New York, 1928), p. 415.

See also *ibid.*, chaps. xvi-xxv (especially) chap. xxii; C. Howard-Ellis, *The Origin, Structure and Working of the League of Nations* (Boston, 1928), chap. vi, pp. 134-139 (especially); chap. xii, pp. 460-469 (especially); William E. Rappard, "The Evolution of the League of Nations," in *Problems of Peace* (London, 1928), pp. 18-23. Roth Williams, *The League of Nations* (New York, 1923), p. 47. Sir Geoffrey Butler, *A Hand Book to the League of Nations* (London, 1925), p. 37; Amos S. Hershey, *The Essentials of International Public Law and Organization* (New York, 1927), chap. xxiii, "C" especially at pp. 503-504; Hershey says in part—"In practice it (the Assembly) might almost be said to have become the general directing force of the League's activities."

It functions by way of open discussion and publicity. This technique is not only a distinct mark of the League which distinguishes it from old diplomacy, but also it is one of the principles upon which the League was established.¹ Therefore, the technique of open discussion and publicity is by no means peculiar to the proceedings of the Assembly, but it is adopted in the Council's meetings. But in view of the fact that the Council is a small body, dealing largely with immediate and acute problems rather than remote and fundamental problems, its important business is frequently conducted outside the Council Chamber and its public sessions tend to become a matter of formal registering of decisions and of opinions.² In this respect the principle of open diplomacy advocated by Mr. Wilson finds its best application in the proceedings of the Assembly. As has been said, the Assembly deals especially with principles and fundamental international policies, so the Representatives gathered at the Assembly or committees desire to have the public understand that they or their countries stand for just causes, advocating right and wise policies. Therefore, they are more likely to refrain from expressing selfish desires of their countries than they might do in private meetings. Desiring success, if not with any higher motives, they will advocate principles or policies which are reasonable and, if possible, acceptable to other countries. This fact is of prime importance because establishing guiding principles and forming reasonable and practical international policies are possible only by such self-restraint and consideration of others' interests.³

¹ See the first sentence of the Fourteen Points of Woodrow Wilson. *World Peace Foundation*, pamphlets, vol. i, p. 136.

² C. Howard-Ellis, *op. cit.*, pp. 454-460; Potter, *op. cit.*, chap. xxiii, pp. 402-416 (especially).

³ Salvador De Madariaga and H. N. Brailsford, "Can the League Cope with Imperialism?" *The Foreign Policy Association*, pamphlet, no. 50 (New York, 1927-1928), *passim*.

It is perhaps from such consideration that Professor Noel Baker remarked that—

No one who has seen the Assembly doubts that the secret of its growing power is the publicity in which, both in plenary sessions and committees, all its work is done. It is that publicity which makes statesmen reluctant to declare, in the old formula of perverted patriotism, that they would stand by the Government of their country "right or wrong". For every statesman at Geneva is now concerned to prove to the world at large that his country is not wrong but right, that it demands not what its military forces can exact, but what impartial justice would accord. The Assembly has grown in strength, it has wielded its influence over sober politicians of every race and nationality, because it had leaders who have dared to use its weapons of publicity and who have dared in public to follow the counsel given by Lord Robert Cecil as a motto for the League in his first great speech in 1920: "Be just and fear not".¹

JAPAN IN THE ASSEMBLY

The chief function of the Assembly having been understood as laying down general principles by which the course of the League is to be guided and to formulate general policies which the Members of the League are to pursue, we are next to consider what action Japan has taken with reference to this particular function of the Assembly. Inasmuch as the Assembly is a gathering of the Representatives of all nations belonging to the League, it is natural that these Representatives express the points of view of their respective countries and advocate policies which are suitable to them. The action taken by Japan at the Assembly should also be considered from this point of view. A careful examination of the record of the Assembly will unmistakably show that the principles and policies held and advocated by

¹ Noel Baker, *The League of Nations at Work* (London, 1927), p. 31.

the Japanese Representatives at the Assembly are closely connected with the deeply-rooted needs of their country.

Francesco Coppla once said with reference to Italy's position that :

It is impossible to understand the age-long need which has always determined the general lines of Italian policy without taking into account the two principal factors which still govern Italy's present and future—the growth of her population and her geographical position in the Mediterranean.¹

If "Italy" and "the Mediterranean" are substituted for "Japan" and "the Pacific", and another factor is added, that the Japanese are a non-white race, this would make an approximately correct description of the position of Japan in the world. The Representatives of Japan in the Assembly take action always with the consideration of this particular position of their country.

The questions in which the Japanese Representatives have taken active part may be classified under the following four groups: Procedural questions, Cultural questions, Economic questions and Political questions.

Procedural Questions

The special position of Japan has reflected itself on the question of the procedure of the Assembly. At the Eleventh Plenary Meeting of the First Assembly when the rules of procedure were submitted by the committee, Viscount Ishii, Japanese Representative, said :

I shall succinctly state the case before the General Meeting, so that Japan's standpoint may be elucidated, and incidentally I shall be able to renew to you in the name of my country the assurance of her profound belief in the League of Nations and

¹ Quoted in W. B. Munro's *The Governments of Europe* (New York, 1927), p. 682.

of her very sincere desire to play her proper share in bringing this unprecedented organization of Peace to the consummation devoutly wished for. It is the question of the article 4 of the Draft Regulations, which orders the holding of the Assembly once every year. In principle, Japan is in full accord with that proposal, but in actual practice she has difficulties which are perhaps undreamed of by many of my colleagues in this Assembly. Even in these days of steam and electricity, Japan is a far cry from the Seat of the League of Nations. A voyage through the China Sea, the Indian Ocean and the Mediterranean Sea will take us more than seven weeks. We must count at least four months for the trip from Japan to Geneva and back through the most convenient route in these days. If we add one month for the duration of the Assembly, the Japanese Representatives must be prepared to be away from their country for five months in the most favorable circumstances. . . . In view of the physical infeasibility of sending Japanese Representatives from a far country, it may often be necessary to elect our Delegates from among those who may be staying at the time in Europe or its vicinity. I desire to take this opportunity to anticipate these circumstances by requesting that any such eventuality should not be considered as a mark of scanty interest on the part of the Japanese Government in the work of the World Parliament. Nothing is, and will ever be, farther from the thought of Japan and her people.¹

As Viscount Ishii predicted the Japanese Government has been choosing their delegates to the Assembly not directly from home but among their Ambassadors to the capitals of European countries, although at the Ninth Assembly Baron Fujimura, a member of the House of Peers, was directly sent from Japan as one of the Japanese delegates.

The significance of this fact should not be overlooked in view of the recent increase in the number of prime ministers and foreign ministers among the delegates to the Assembly.

¹ *The Records of the First Assembly, Plenary Meetings*, pp. 220-221.

Rappard gives the following interesting statistics as one of the indications of the increasing prestige of the Assembly:

<i>Year</i>	<i>No. of States represented</i>	<i>No. of prime and foreign ministers among delegates</i>	<i>Proportion of prime or foreign ministers to number of delegations</i>
1920	47	6	12.8 per cent
1921	52	8	15.4 "
1922	51	9	17.6 "
1923	50	6	12.0 "
1924	51	22	43.1 "
1925	50	17	34.0 "
1926 (extra) ..	47	16	34.0 "
1926	50	18	36.0 " ¹

As these statistics indicate, the proportion of premiers or foreign ministers to the number of the delegations to the Assembly is yearly increasing, except that in 1924 when the Geneva Protocol was discussed by the Assembly, the number of prime and foreign ministers was larger than in the subsequent years. If this tendency means that the League Members receive greater benefits by sending persons who are directly responsible for their foreign affairs than by sending ambassadors who stay near Geneva, the fact that it is impractical for Japan to send her prime or foreign ministers must be a real handicap to Japan. If the Assembly were to meet every two years instead of every year, as suggested by the Japanese, it would not be impossible for Japan to send her premier or her foreign minister to Geneva. This geographical handicap coupled by the difficulty arising from Article 4 of the Assembly's rules of procedure is productive of another disadvantage to the function of the League as well as to Japan. As long as it is impractical for Japan to send her premier or foreign minister to the Assembly, she

¹ William Rappard, "The Evolution of the League of Nations," *Problems of Peace*, published for the Committee of the Geneva Institute of International Relations (London, 1929), p. 18.

will continue to send her Ambassadors at Paris, London, or other capitals of European countries. But ambassadors have their duty to maintain friendly relations with the countries where they are sent. Suppose Japan has reasons to advocate certain principles or policies which are beneficial to the world as a whole as well as to herself, but which are repugnant to the country to which the Japanese delegate happens to be the ambassador. In such case he would either have to refrain from expressing what his country desires in order to maintain friendly terms with the country where he is sent, or risk his position as ambassador in order to express frankly his country's view. So far, there is no clear evidence to show the realization of this possibility. But it is possible to conjecture that the Japanese delegate to the extra session of the 1926 Assembly might have been able to take a more decisive attitude with regard to the admission of Germany to the League if he had not been the ambassador to France.

Whether or not the Assembly should meet every year is a matter of procedure which is apparently of secondary importance to the Members. But it must not be overlooked that the special geographical position of Japan creates a peculiar disadvantage to Japan and to the League from this otherwise wise and acceptable rule of procedure of the Assembly.¹

When the question of a possible reduction in the yearly number of sessions of the Council was discussed, the Japanese Representative was in favor of reducing the number of sessions for the reason that "it would enormously facilitate the attendance of men who were responsible for their countries' policy . . .", and he suggested that "should the number of sessions be reduced it was even possible that the Minister responsible for Japanese foreign affairs might undertake a journey to Europe from time to time." *9th Year, Official Journal*, 173.

Although not directly related to the procedure of the Assembly another difficulty might be added in connection with the special geographical position of Japan. In order that the League's work be efficiently carried

Cultural Questions

It has been said that one of the factors which direct the action of Japan in the Assembly is the fact that Japan belongs to one of the non-white races. This fact reflects itself in the Assembly when Japan acts with regard to problems which may be called "cultural".

At the Second Assembly, Japan, with South Africa, Roumania, China, Finland, Albania, Venezuela, Belgium, Persia, Czecho-Slovakia, Colombia and India, presented a joint motion to the effect that the Assembly should request the Secretariat to prepare a report on the possibility of teaching Esperanto among the countries which belong to the League.¹

As might be expected, there was no concrete result from this motion. It seems to have disappeared from the public eyes. But an interesting feature in this motion is that all Asiatic Members except the Siamese were included. The

out, it is necessary that there should be mutual confidence and close communications between the Representatives of the Members and their home governments. The fact that the Japanese Representatives to the League reside in Europe, which is far from the Japanese capital, creates a real handicap for the Representatives to explain the work of the League to the Government and persuade it to act on their recommendation. With regard to the slowness of the Government to take necessary measures to enforce Opium conventions, there is the following interesting passage in the Minutes of the Eleventh Session of the Opium Commission: "Mr. Sato himself, since he resided either in Paris or Geneva, had his personal difficulties. His influence on his Government was very slight and he had great difficulty in convincing it of the urgency of the problem. He had explained quite frankly the difficulties with which Japan was faced, and the Committee was, he thought, now in a position to realize why it took so long for the Japanese Government to take the necessary measures. The case was wholly different in a country, for example, like Great Britain. In that case the British representative could convince his own Government and obtain the adoption of any law he desired." C. 328. M. 88, 1928 (O. C. 816), p. 45.

¹ *Second Assembly Record, Plenary Session*, pp. 218-219; *Assembly Document 253*, Dec. 17, 1920.

reason for Siam's abstaining cannot be authentically known. She may have possibly refrained from signing the motion in view of her particular relations with France, who might have been offended by such action on the part of Siam. At any rate in this motion India, Persia, China and Japan took a joint action, and this fact without exaggerating its importance seems to deserve notice.

At a meeting of the Fifth Committee of the Fourth Assembly, when the work of the Committee on Intellectual Cooperation was under discussion, M. Chao-Hsin Chu, Chinese Representative, pointed out that the intellectual movement in the Far East was not adequately represented on the Committee. M. Privat of Persia shared the feeling of the Chinese and regretted that "the great types of Asiatic culture had not obtained due recognition on the Committee." As for a practical method, referring to the recent earthquake in Japan, he suggested to the Committee that "one great task awaiting the Committee on Intellectual Cooperation, and probably the first which it would consider, was, therefore, to assist Japan in reconstructing its library and scientific works."¹ At a later meeting of the Fifth Committee the same Persian Representative submitted to the Committee the following resolution:

The Fifth Committee, grieving at the calamity which has stricken the Universities and Libraries of Japan, invites the Committee on Intellectual Cooperation to study means to afford international assistance so as to facilitate the reconstitution of the library and scientific collections which have been destroyed in Japan.

and the proposal was unanimously adopted by the Fifth Committee.² These events from their nature cannot be

¹ *Records of the Fourth Assembly, Fifth Committee's Minutes*, p. 24.

² *Ibid.*, p. 34.

cited as an evidence of the possibility of a future "Asiatic Alliance" or anything of the kind. On the other hand, it can safely be inferred that there is a possibility that the Asiatic Members of the League, including Japan, can without much difficulty advance through the instrumentality of the League the claim for the Asiatic culture of which they are proud. The degree of such possibility seems to depend largely on the relative importance of the cultural work of the League and on the relative prestige of the Asiatic Members as nations. At any rate, it appears certain that Japan will seize every opportunity to join other Asiatic Members of the League in order to advance the claim she has in common with them. It has already been observed that when the Japanese Representative proposed that the racial-equality clause be included in the Covenant, the Chinese Representative, who had held different points of view from the Japanese otherwise, was in full sympathy with the proposal and voted for it. Therefore, there is reason to conjecture that these cultural questions discussed at the Assembly of the League, however unimportant they may appear at present, may become of great importance to the Asiatic Members with the development of the League of Nations.¹

Economic Questions

Concerning the economic questions discussed in the Assembly, Japan has been able to express her national aspiration in a more active and decisive manner than on the questions previously discussed. In some of these economic questions there have been appreciable results of Japan's effort.

The first occasion in which Japan had an opportunity to express her special position was with regard to the International Labor Organization. At the sixth meeting of the

¹ Cf. *supra*, p. 32.

Fourth Committee of the Third Assembly when the budget of the International Labor Organization was under consideration, Mr. Adatci, Japanese Representative, asked M. Albert Thomas, Director of the International Labor Office, whether or not M. Thomas thought that the number of officials of the office from extra-European countries and, in particular, from Far Eastern countries, was not such as to correspond with the importance of these countries from the point of view of the protection of the workers.¹ Again at a later meeting Mr. Adatci asked M. Thomas if it was possible to establish a branch office or a correspondent in the Far East. M. Thomas answered that "he would be delighted if it were possible to establish a branch office in Tokio. This development would be justified by the recent remarkable labour movement in the Far East." But he doubted its feasibility in view of the financial condition of the Labor Office.²

Apart from the concrete fact that Mr. Adatci's suggestion has resulted in the establishment of a branch office of the International Labor Office at Tokio, it is important to note that the Japanese Representative, representing the part of the world which might have been ignored by the officials of the Labor Office, has been able to call attention to the problem which might otherwise have been disregarded. The recent visit of Mr. Thomas to Japan has aroused the keen interest of the Japanese public.³ Whether his visit was influenced by the activities of the Japanese at the Assembly, it is impossible to determine. But it cannot be doubted that the practice of open discussion and publicity in the Assembly

¹ *Records of the Third Assembly, Fourth Committee's Minutes*, p. 40. Mr. Thomas' answer is not recorded in the Minutes.

² *Ibid.*, p. 44.

³ M. Thomas's visit was heartily lauded by M. Tamon Maeda, one of the recognized authorities on labor problems in Japan. *Kokusai Chishiki*, Oct., 1928, pp. 21-26.

in which the Asiatic Members enjoy full freedom to express themselves is an important factor in keeping alive the League's interest in the questions of the Orient.

Another question in which the Japanese Representative seized an opportunity to express the position of his country was the question of transit and communications. The Second Committee of the Third Assembly was to deal, as a part of its work, with the question of transit and communications, as provided in Article 23 of the Covenant. The first meeting, which was held on September 6, 1922, elected Mr. Adatci as Rapporteur on the Committee on the subject of Communications and Transit.¹

After having surveyed the whole work of the Committee, Mr. Adatci said:

The Assembly will have noted that the whole work of the Committee for Communications and Transit, while undoubtedly of great importance, has been confined to Europe, more especially to the communications of countries in the Continent, and that the one great route between the Far East and Europe has never been made the subject of its investigations. Moreover, questions of communications by sea have not been taken up energetically. The condition of Siberia certainly does not enable us to consider the question of the single great land route between my country and Europe. Post-war maritime questions are so complicated that the Committee might easily become involved in inextricable confusion if it omitted to take every possible precaution. I shall, therefore, merely express my earnest desire that, at no distant date, the Committee may be in a position to undertake the serious consideration of these vital questions, and that at one of the forthcoming general conferences these problems may be solved on just and practical lines in such a manner as to gain for the League of Nations the confidence of humanity.²

¹ *Third Assembly, Second Committee's Minutes*, p. 10.

² *Ibid.*, p. 68. Mr. Adatci was heartily supported by M. Tcheou-Wei of China. *Ibid.*, p. 23.

There seems to be a two-fold significance in this case. First, Japan showed her dissatisfaction with the fact that the League's economic work was largely confined within Europe and her Representative at the Assembly was persistently calling attention to this fact. Second, the Japanese Representative was able to express the attitude of his country, not as a spokesman of his country but as Rapporteur of the Assembly and thus an official of the League. The second point deserves special attention, because if the Representative of a Member of the League can effectively utilize his official position in a League's technical organization as a means of expressing his country's position, the question of distributing the offices of the League's organizations is not merely a matter of administration, but a matter which involves important political considerations.

The next question to be dealt with is the question of the equitable treatment of commerce which is provided in Article 23 of the Covenant. This question had been carefully studied by the Economic Committee and the report on its work was about to be drafted by the Second Committee. But the Committee decided to postpone the drafting of the final report when Mr. Adatci reserved the right to express the view of his country.¹ At a later meeting of the Committee, Mr. Adatci, after having expressed his appreciation of the work of the Economic Committee, pointed out that the Committee had up to the present confined itself principally to the investigation of the treatment of foreigners and of foreign undertakings from a fiscal point of view. "It is likewise essential," he said, "that the general commercial and industrial facilities to be granted to foreigners by the various Members of the League should be taken into consideration, and that the point as to whether foreigners

¹ *Records of the Fourth Assembly, Minutes of the Second Committee*, p. 24.

should enjoy the same treatment as nationals should be discussed."

Referring to the question of coast navigation, he said "that in certain regions, coast navigation sometimes includes navigation between a country and its distant possessions, divided by the high seas—a high road common to all humanity." "This appears" to him "to be little in harmony with the general spirit of equitable treatment of international commerce," and he proposed that this question also should be investigated by the Economic Committee.¹

Mr. Adatci's proposal was opposed by M. Serruys, French delegate. He thought that "the utmost that the Second Committee could do would be to point out to the Committee that there was a permanent and universal problem, which might possibly receive a practical solution at a still uncertain date."² As to the rights of foreigners abroad, Mr. Serruys said that "In the present world situation it could not be contested that each State has absolute sovereign rights over its own natural resources." He agreed, however, in principle that the question should be referred back to the Economic Committee, provided that no opinion as to the proper solution of the problem was to be expressed. With regard to the question of coastal trade, he was opposed to the proposition that this should be referred to the Economic Committee. Mr. Graham of Canada was also opposed to the Japanese proposal. He thought that the League would find it difficult to prevent any Government from making its own regulations for coastal trade.³ The Japanese proposal was, however, supported by Mr. Van Eysinga of the Netherlands and Mr. Strasburger of Poland.

The final result of this discussion was that the Second

¹ *Records of the Fourth Assembly, op. cit.*, pp. 25-27, 59-60.

² *Ibid.*, p. 25.

³ *Ibid.*, p. 26.

Committee decided to refer to the Economic Committee for its consideration the proposals of Mr. Adatci except that regarding the maritime coastal trade, "with which the second conference on Communications and Transit will deal if it thinks fit to do so."¹

The Japanese proposal was carefully studied by the Economic Committee and its result was reported to the Second Committee of the Fifth Assembly on September 20, 1924. According to this report the Economic Committee had decided to limit the scope of its inquiry to the question of the right of foreigners who had already been admitted into a country to carry on professions and occupations, and also to the question of the freedom of residence and travel.² On this basis, the Economic Committee continued its study on the problem. At the sixth meeting of the Second Committee of the Sixth Assembly the result of the Economic Committee's investigation was reported. This report took the form of recommendations to the Assembly and to the Council, which were later adopted by both. The Committee's recommendations concerning the treatment of foreign nationals with which Japan had been particularly concerned are summarized as follows:

1. That the number of professions, industries and occupations into which the entry of foreigners is restricted on the ground of national interest should be limited to the essential minimum required by those interests.

2. That the restrictions placed on foreigners with regard to carrying on professions, industries, and occupations of this class, should be similarly limited to those which are *bona fide* necessary for the protection of national interests.

3. That in applying such restrictions, there should be no

¹ *Records of the Fourth Assembly, Minutes of the Second Committee*, p. 26.

² *Fifth Assembly, Second Committee's Minutes*, pp. 33, 53-54.

arbitrary or unjust discriminations between foreigners on the ground of nationality.¹

This report was satisfactory to Japan. M. Nagai, Representative of Japan, expressed his appreciation of the work done by the Economic Committee and called attention to the fact that the Japanese delegation had taken a particularly active part in the question of the treatment of foreign nationals and also "that his Government had always taken its place among the champions of the equitable treatment of commerce."²

In May, 1927, the World Economic Conference was held at Geneva under the auspices of the League. The question of the treatment of foreigners was one of the topics of the conference. The final report of the Conference with regard to this question, however, was disappointing to Japan because it simply reiterated the principles recommended by the Economic Committee of the League except that the Conference report was more conservative and ambiguous than the Committee's recommendations. The Conference recommended that the Council should prepare for a meeting of a diplomatic conference for the purpose of drawing an international convention, and the following points were suggested to be "borne in mind" in drafting such convention:

1. Equality of treatment with regard to conditions of residence, establishment, removal and circulation, between foreigners admitted to a State and the nationals of that State;
2. Conditions of carrying on trade, industry, and all other activities by foreign persons and enterprises;
3. Legal status of the same persons and enterprises;
4. Fiscal status of the same persons and enterprises.³

¹ *6th Year Official Journal*, pp. 954-964; p. 959 (especially).

² *Sixth Assembly, Second Committee's Minutes*, p. 40.

³ *Report and Proceedings of the World Economic Conference*, May 4-23, 1927. C. 356. M. 129, 1927. II. (C. E. I. 46), pp. 35-36.

Later the Council of the League in its forty-fifth session "invited" the Economic Committee to consider the suggestions made by the Economic Conference. The Economic Committee at its session in March 1928 drew a draft convention regarding the treatment of foreign nationals embodying the principles proposed by the Economic Conference.¹

While the principles embodied in this draft are far from being satisfactory to the Japanese, it is important to note that the question of the treatment of foreigners which had been regarded as "strictly within the domestic jurisdiction" of the countries in whose territories the foreigners reside has become a proper subject for international discussion, and that this step has been taken to a considerable extent by the insistence of the Japanese Representative. It should be remembered that a Japanese delegate at the Peace Conference proposed to the League of Nations Commission to adopt the clause "by the endorsement of the principle of the equality of Nations and the just treatment of their nationals" as part of the Preamble of the Covenant, and that when this proposal was rejected the same delegate declared that his Government and people "will continue in their insistence for the adoption of this principle by the League in the future."²

Japan has not taken a direct issue on the equality of races or of nations. But the insistence on the question of the treatment of foreign nationals may be said to be an indirect approach to the same problem, which she considers very important.

It has been said elsewhere that the activity of Japan at the Assembly should be understood under the light of her special

¹ *Draft Convention on the Treatment of Foreigners*, C. 174. M. 53. 1928, II.

² *Cf. supra*, p. 34.

economic, geographical and racial circumstances. Japan is a small country with a growing population. Her corresponding economic growth is seriously handicapped by the insufficiency of raw materials. The immigration of her people is virtually prohibited in all lands under the control of the English-speaking peoples. Under such circumstances it is more than natural that Japan has been particularly interested in the question of the treatment of foreigners. As long as such circumstances remain, the Japanese Representatives will continue to seek every opportunity to keep the question of the treatment of foreigners as a living issue of the Assembly.

Political Questions

Draft Treaty of Mutual Assistance

The first important question of political nature with which Japan was concerned was that concerning the Draft Treaty of Mutual Assistance.¹

This Draft Treaty was the result of the laborious work of the Temporary Mixed Commission which had undertaken to bring about security and disarmament in accordance with Resolution 14 of the Third Assembly. Although Japan was in general agreement with the principle of this treaty, there was one point to which she was vigorously opposed, namely, with reference to partial agreements. When this question was brought to the Third Committee of the Fourth Assembly for general discussion, M. Matsuda, Japanese Representative, declared that his Government was opposed to the idea of partial agreements because it was likely to lead to the creation of several rival groups and was "contrary to the spirit of friendly understanding and confident co-operation

¹ Treatises on this subject, see the *Official Journal*, 1924, *Fourth Assembly*, *Third Committee's Minutes*, pp. 10-70. Bruce Williams, *State Security and the League of Nations* (Baltimore, 1927), chap. v, pp. 151-182 (especially).

which should inspire the great family groups of the League." . . . "The existence of partial agreement," he went on to say, "would imply the possibility of an outbreak of war, outside the impartial and previous control of the Council."¹

However, in view of the fact that the majority of the members of the Committee were in favor of such plan, he said that—

The Japanese Government was prepared to give the strongest evidence of its spirit of conciliation and the Delegation would consent to the existence of partial agreements on condition that the control of the League of Nations should be complete, that the Council should be the first to authorize the entry into effect of the partial agreements, and that, in all cases of aggression, the Council should have the right of preliminary examination. Only on these conditions could the Japanese Delegation consent to partial agreements. It was, in effect, entirely opposed to the automatic and immediate coming into force of an alliance without previous consideration and approval by the Council.²

At a later meeting (Ninth meeting, Sept. 19) M. Matsuda proposed an amendment to Article 8 of the Draft. The original text reads:

In all cases of aggression contemplated by defensive agreement within the meaning of Articles 6 and 7, the States parties to such agreements may undertake to put into immediate execution the plan of assistance which they have agreed upon.

M. Matsuda's proposal was to strike out "may undertake etc." and add "shall not have the right to put into immediate execution the plan of assistance which they have agreed upon. It cannot be put into execution until a decision of the Council has been taken in accordance with paragraph 1

¹ *Records of the Fourth Assembly, Minutes of the Third Committee*, p. 109; p. 30.

² *Ibid.*, p. 30.

of Article 4.”¹ The Japanese amendment was opposed by the British Empire while it was supported by Italy and China. When it was voted it was rejected by 14 to 5.²

Out of these conflicting views among the leading Members of the League, the final text was drafted. Naturally it was a most imperfect document embodying the conflict of principles. But the Assembly consented to submit the Draft to the various Governments for observations and replies, which later showed the failure of this treaty.

Without discussing the merit of the treaty it is not of little interest to observe that Japan stood for the principle of general agreement as against that of partial agreements, and that when she conceded the idea of partial agreements she demanded that “the control of the League of Nations should be complete, and that the Council should be the first to authorize the entry into effect of the partial agreements, and that in all cases of aggression the Council should have the right of preliminary examination.” No official records are available to ascertain the real motive behind such demand. But in view of the fact that she is a Far Eastern Power—not immediately involved in European politics—and that she has a permanent seat in the Council, the real motive may be attributed to the fear that the effect of the partial agreements might prejudice her privileged position at the Council while she would have little prospect of obtaining corresponding benefits from partial agreements because she is already a party to the Four Power Pact and Nine Power Pact with regard to China and the Pacific, which is virtually a Far Eastern partial agreement. Japan’s attitude with regard to

¹ *Records of the Fourth Assembly, Minutes of the Third Committee*, p. 43; cf. also the Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain and Italy (Initialled at Locarno, Oct. 16, 1925), Article 4, paragraph 2.

² *Ibid.*, p. 45.

the Draft Treaty of Mutual Assistance may be said to be a good example of the expression of Japan's special geographical position.¹

“ GENEVA PROTOCOL ”

One of the most spectacular incidents that have ever occurred in the debates in the Assembly, and probably the clearest reflection of the special position of Japan, was to be found in the Japanese amendment with regard to “domestic questions” in the Protocol for the Pacific Settlement of

¹ It is difficult to reconcile the policy of the Japanese Government expressed in M. Matsuda's statement with that expressed by Viscount Ishii two years later. At the fifth meeting of the Thirty-sixth Session of the Council, when the conclusion of the Locarno Treaty for mutual guarantee was celebrated by the delegates, Viscount Ishii said in part:

“The distinguished statesmen at Locarno succeeded for the first time in realizing this object as regards Western and Eastern Europe. Japan, while remaining a spectator owing to her geographical position, was deeply interested in this work of peace, and, at the issue of the Locarno Conference, it was particularly happy to note that certain ideas entertained by Japan were there realized. The Japanese delegation during the last Assembly of the League of Nations had occasion to observe that, in view of new circumstances which had arisen, it appeared to her wiser not to insist on the immediate adoption of the Geneva Protocol; to confine the task of the League of Nations for the moment to the establishment of regional agreements; to extend these regional agreements, as far as circumstances permitted, to other parts of the world; and, finally, to introduce and to perfect the system of international conciliation drawn up by the Third Assembly of the League of Nations. A regional agreement of the first importance was established by the Locarno Conference. It is hoped that this agreement will serve as a valuable mode for other regional agreements of the same character in other parts of the world . . .” *6th Year Official Journal*, pp. 1715-16.

This change of attitude of the Japanese Government may possibly be due to the consideration that the prospective benefit derived from the stabilization of Europe, which the Locarno agreement tended to bring about, is greater than a possible sacrifice of her privileged position in the Council. The question whether or not the principle of general or partial agreements should be adopted as a means to bring about security is important to Japan. But this importance may not be as great as to make her prevent the stabilization of Europe.

International Disputes which is generally termed "the Geneva Protocol".¹

The Japanese amendment was for the first time presented to the seventh meeting of the First Committee of the Fifth Assembly on September 25, 1924.² Article 5 of the original text of the Protocol to which the Japanese proposed an amendment, reads:

If, in the course of an arbitration such as is contemplated by Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which, by international law,

¹ For discussions on this subject see—

General Report submitted to the Fifth Assembly on behalf of the First and Third Committees by M. Politis and M. Benes. Records of the Fifth Assembly, Minutes of the First Committee, pp. 117-135.

David Hunter Miller, *The Geneva Protocol* (New York City, 1925) especially chap. xi, pp. 64-71 for the Japanese amendment.

C. P. J. Noel Baker, *The Geneva Protocol* (London, 1925).

Bruce Williams, *State Security and the League of Nations, op. cit.*, pp. 182-205.

Sakutaro Tachi, "The Protocol and Domestic Questions," *Revue de Droit International et de Diplomatie*, xxiv, No. iv, April, 1925, pp. 1-13. Compare Kisuburo Yokota, "The League of Nations and Domestic Questions," *ibid.*, xxiii, No. 10, Dec., 1924, pp. 19-48.

Manley C. Hudson, "What the Protocol does?" *World Peace Foundation*, vol. vii, no. 7, pp. 391-400.

James Shotwell, "Protocol for the Pacific Settlement of Military Disputes," *International Conciliation*, no. 205, Dec., 1924.

² A possible explanation as to why this question had not been discussed by the Fifth Sub-Committee of which Mr. Adatci was Chairman may be found in the fact that Mr. Adatci had to refrain from discussing this delicate question because he had not received adequate instructions from home Government. Mr. Adatci said at the fifth meeting on September 23 that "in consequence of difficulties of communication between Japan and Europe, he had received no instructions from his Government in regard to the Arbitration Protocol, and he was, accordingly, obliged to make reservations on all the parts of the draft. If he had often expressed his views on the Sub-Committee, he had accordingly done so in all cases in his private capacity." *Fifth Assembly, Minutes of the First Committee*, p. 29.

is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the intermediary of the Council of the League. If the Court replies that in fact the dispute does arise out of such a matter, the arbitrators shall confine themselves to so declaring in their award.¹

Mr. Adatci's proposal was to add to it the following sentence: "without prejudice to the Council's duty of endeavoring to conciliate the parties so as to assure the maintenance of peace and good understanding between nations."²

At the same time he let the Committee understand that if the proposed amendment were rejected he would have to propose an amendment to the second part of paragraph 1 of Article 6.³ But the Japanese amendment was not discussed until the ninth meeting on September 26. At that meeting Sir Cecil Hurst, delegate of the British Empire, proposed the following provision as a substitute for the Japanese amendment:

The undersigned agree that except as herein provided the present Protocol shall not affect in any way the rights and obligations of Members of the League, as determined by the Covenant,

¹ *Fifth Assembly, Minutes of the First Committee*, p. 102.

² *Ibid.*, p. 45.

³ Article 6 which became Article 10 in the final Draft reads in part: "In the event of hostilities having broken out, any State shall be deemed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare:

If it has refused to submit the dispute to the procedure of pacific settlement provided for by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, *or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognizing that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State*, *ibid.*, p. 102. *Italicized by the author.*

including in particular the duty of the Council to endeavor to achieve by conciliation the settlement of disputes so as to assure the maintenance of peace and good understanding between nations.¹

This compromise did not satisfy the Japanese. He once more made himself clear that he would insist either on the original amendment in Article 5 or the deletion of the second part of paragraph 1 of Article 6. France and Italy were in sympathy with the Japanese, while the Netherlands, Belgium, Brazil and the British Empire were opposed to the Japanese amendment. In such unfavorable circumstances Mr. Adatci was compelled to withdraw his proposal. But at the twelfth meeting on September 28, he read the following statement before the Committee:

It is the profound conviction of the Japanese delegation that the League should, in fulfilment of its moral and political duties, allow the application of the procedure laid down in Article 12, 13 and 15 of the Covenant in the case of all disputes which may arise between Members of the League. In paragraph 8 of Article 15 alone is it provided that such procedure shall not apply to a certain class of questions which may arise between the various States. The League of Nations should fulfill its regular duty by making all such questions subject to the procedure laid down in the Covenant, whenever the peace of the world is seriously endangered, in order to facilitate a pacific settlement and a just and equitable solution of the dispute. There would be otherwise this absurd consequence, that the League of Nations will remain quite indifferent to the fact that the most flagrant acts of injustice are being committed under the purely technical and juridical cover of the alleged domestic jurisdiction of a State which is a Member of the League.

And yet, the Committee has desired to maintain a disconcerting and absolute inactivity on the part of the League in disputes

¹ *Fifth Assembly, Minutes of the First Committee*, p. 55.

which may arise between the Members in connection with any of the problems which are vaguely covered by paragraph 8 of this article.

Very regretfully we yield to your wishes, for the time has perhaps not yet come to insist upon this point. But what is so illogical and unjust is that any party should incur the risk of being declared the aggressor because it takes action when flagrant injustice has given rise to disputes between the Members of the League and the latter has categorically refused, in virtue of purely technical and juridical considerations, to deal with the matter. The most elementary logic and equity should preclude such a method of procedure, for the League should not threaten to declare guilty any party which takes action, precisely when the League offers no solution, when a dispute has arisen between that party and another State which threatens to disturb international peace or the good understanding between nations.¹

And he formally proposed to delete the words ". . . or has disregarded . . ." in No. 1 of Article 6 of the Protocol. Although this declaration could convince the French, Italian, Greek and Belgian delegations, the Brazilian delegation still held that if the Japanese proposal were adopted "it might be impossible to inflict penalties in half the cases calling for judicial action, and the most abominable and unjustifiable wars would have legal sanction."²

In view of the impossibility of reaching a unanimous agreement, the Committee, on the recommendation of the French delegation, decided to submit the question to the Sub-Committee for further consideration.

At the thirteenth meeting on September 30, M. Politis, Rapporteur of the Sub-Committee, announced to the First Committee that the main difficulty had been settled "to the satisfaction of all members of the sub-committee." The

¹ *Fifth Assembly, Minutes of the First Committee*, pp. 80-81.

² *Ibid.*, p. 81.

proposals of the sub-committee were first to add to Article 5 the sentence, "If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, the decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant."¹ And secondly, to add the following sentence at the end of paragraph 1 of Article 6: "Nevertheless, in that case" (that is to say, when a unanimous report of the Council or a judicial or arbitral decision has established that the dispute refers to a matter which under international law is solely within the domestic jurisdiction of the State) "the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly in accordance with Article 11 of the Covenant".²

The sub-committee's proposals were accepted by all the delegations, including the Japanese. But the British delegation in accepting the proposals made a reservation that the said amendments did "not confer new powers or functions on either the Council or the Assembly."³

After these strenuous efforts by the committees and sub-committee, the Protocol was finally adopted by the Fifth Assembly. But with the fall of the Labor Cabinet in Great Britain a new situation was created and the Protocol had to meet the same fate as its predecessor. Consequently the idea cherished by the Japanese delegation at the Fifth Assembly has not taken a legal force binding upon the Members of the League.

The real significance of the Japanese amendment, however, is to be found not in its success or failure at a particular session of the Assembly, but in the fact that it indicates

¹ *Fifth Assembly, Minutes of the First Committee*, p. 85.

² *Ibid.*

Ibid., p. 87.

the existence of a most difficult problem, how the League of Nations should deal with "domestic questions".¹ It is not sufficient to say that the League or the Court is competent to declare that such questions are "domestic". The problems are still there, causing ill-feeling between nations. If the League, which was created "in order to promote international cooperation and to achieve international peace and security", is simply to declare that certain questions are or are not "domestic" and can take no further action, it can not meet the need of the age which has already witnessed the fact that certain "domestic questions" cause serious difficulties. The League must provide some means for the solution of this particular class of questions. From this point of view the provisions of the Japanese amendment will be carefully examined.

The Japanese amendment as modified by the subcommittee and finally accepted by the Fifth Assembly is in fact two separate propositions, and therefore should be discussed separately.

The first part of the amendment refers to the power of the Council and of the Assembly under Article 11 of the Covenant to consider a class of questions declared by the Court as falling within the domestic jurisdiction of one party.² Article 11 referred to reads:

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise,

¹ It should be borne in mind that "domestic questions", however "domestic" their origin may be, are subject to international cognizance if they form the subjects of treaty provisions. The questions referred to in the text are not those of such nature.

² Last paragraph of Article 5 of the Protocol.

the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

Another provision of the Covenant which should be read with Article 11 is paragraph 8 of Article 15, which reads :

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

It should be observed that the power of the League under Article 11 is general. It may deal with any emergency, whether it has arisen from a domestic or foreign question. On the other hand, the power of the Council to "recommend" under Article 15 is not extended to domestic questions. Assuming that Article 11 and Article 15 are in harmony, it is clear that the Council and the Assembly must have some power other than that of recommendation to do something with domestic questions threatening war. Prior to the Japanese amendment this "some power" had not been officially defined. In this respect, the first part of the Japanese amendment which refers to the power of the Council and of the Assembly in respect to "the consideration of the situation" may be said to be the interpretative clause clearing the ambiguity between Article 11 and Article 15 of the Covenant. At any rate, this part of the Japanese amendment, as the British delegation asserted, "did not confer new powers or functions on either the Council or the Assembly". It may be further asserted that this part of

the amendment did not change the legal effect of the Protocol, for it simply expressed what would otherwise have been implied. The only merit of this part of the Japanese amendment, as far as its legal aspect is concerned, is the contribution to a clearer definition of the duty of the Council with regard to "domestic questions".¹

From a political standpoint, however, the first part of the Japanese amendment seems to bear a considerable significance. It is true that the Protocol did not deprive the Council or the Assembly of the power to consider "domestic questions" even without the Japanese amendment. But inasmuch as there was juridical ambiguity in the original text of the Protocol and in the Covenant, there was a possibility that the Council might for political reasons refuse to consider such question on the ground that the Council was not competent to deal with it. For instance, if a dispute should arise between Japan and one of the British Dominions over the question of the treatment of the Japanese residents in the latter, and if this question were submitted to the Court through the Council and declared by the Court to be a domestic question of the Dominion, it is possible that Great Britain, in view of her imperial policy and other European Powers of the Council, in consideration of their relations with Great Britain, might refuse to discuss the matter by so interpreting the Covenant and the Protocol as to exclude "domestic questions" entirely from the jurisdiction of the Council. This would no doubt be most unfortunate, for in such case, as the Japanese delegate said, the League of Nations would "remain quite indifferent to the fact that the most flagrant acts of injustice are being committed under the purely technical and juridical cover of the alleged domestic jurisdiction of a State which is a Mem-

¹ Bruce Williams, *State Security and the League of Nations*, *op. cit.*, p. 196.

ber of the League." The first part of the Japanese amendment made such eventuality impossible. Therefore, aside from the advantage to Japan, there seems to be a real and permanent gain for the League in this part of the Japanese amendment.

The second part of the Japanese amendment, however, seems to have a different aspect.

The text of the provision in the draft Protocol which was amended by the Japanese proposal, reads in part:

In the event of hostilities having broken out, any State shall be deemed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare: If it has . . . disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognizing that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State.¹

The Japanese amendment was to add the following sentence at the end of the quoted provision: "Nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article II of the Covenant."

To what extent did the Japanese amendment change the meaning of the original text? Inasmuch as this amendment was adopted after a heated discussion one may naturally be led to believe that there was a great difference between the original text and the Japanese amendment. A careful examination of Article 10 shows, however, that the difference between them is theoretical rather than practical.

Without the Japanese amendment a country which went to war over a domestic question after having submitted the

¹ *Records of the Fifth Assembly, Minutes of the First Committee*, p. 102.

question to the Council would be *presumed* to be an aggressor and the sanctions as provided in Article 16 of the Covenant would be immediately employed against her. Under the Japanese amendment, on the other hand, there is no presumption of aggression if the question is submitted to the Council under Article 11 of the Covenant; and each country in the dispute could send her Representative to the Council under paragraph 5 of Article 4 of the Covenant. Thus she would have another opportunity to explain that she is not an aggressor, and the sanctions provided in Article 16 of the Covenant would not be employed against her until the Council unanimously decides that she is an aggressor. As it would be almost impossible for the Council to reach a unanimous decision in determining the aggressor "at once", the Council would "be bound to enjoin upon the belligerents an armistice" under paragraph 3 of Article 10 of the Protocol. The country which went to war over a domestic question would have to accept the armistice, otherwise she would be "deemed an aggressor" under paragraph 4 of Article 10 of the Protocol. But it is extremely unlikely that any country would go to war if she knew that the Council would enjoin an armistice—which she must accept—as soon as the war began. Therefore, the difference between the original Article 10 (Article 6 of the unamended text) and the amended Article 10 lies in this: Under the original Article 10 countries cannot without violating the Protocol go to war over "domestic questions" while under the amended Article 10 countries can without violating the Protocol go to war but cannot continue the war. In other words, the right obtained by the Japanese amendment is the right to go to war over "domestic questions" *but not the right to accomplish the purpose of the war*, provided that the Council did its duty under Article 10 of the Protocol.

In the final analysis, therefore, the value in the Japanese

amendment is to be found principally in its first part, namely the official recognition of the Council's duty with regard to the consideration of "domestic questions".

The Geneva Protocol, if it had come into force, would have established the following principle with respect to "domestic questions": that the question whether a certain dispute arises "out of a matter which by international law is solely within the domestic jurisdiction" of one party is a question of law, therefore it should be decided by the Court; that the Council should not make recommendation as to the settlement of "domestic questions", for such action on the part of the Council would necessarily interfere with the sovereign rights of the Members of the League; that under no circumstances can the Members of the League settle "domestic questions" by war; that nevertheless the Members of the League reserve the full right of discussion and publicity with regard to "domestic questions" through the instrumentalities of the League so that such questions will be amicably and gradually settled by political means.

CONCLUSION

It has been said at the outset of this chapter that the chief function of the Assembly is to form permanent policies of the League by way of discussion and publicity. In order that the policy-forming body of any organization may effectively function, there must exist at least two conditions. First, it must represent various interests of the constituents of the organization; second, these various interests should be well expressed through a proper organ of that organization. The various interests of the Members of the League are well represented in and fairly expressed through the organ of the Assembly. In this sense the Assembly may be said to be properly functioning as a policy-forming body of the League. On the other hand, it must be admitted that

the Assembly is still short of being the representative body of the family of nations as a whole. The absence of the United States, Russia and other powers is the limitation imposed upon the League of Nations; and the usefulness of the Assembly cannot exceed such limitation.

However, as has been shown in the foregoing pages, the participation of Japan in the League peculiarly contributes to the effective functioning of the Assembly, within the limitation of the League itself, as an international policy-forming body as distinct from a European policy-forming body. It is true that other non-European countries are in the League and take their due shares. It is also true that these countries, either due to their relatively insignificant positions in world politics, or due to their internal difficulties, are not yet in a position to assume a leading rôle in the work of the League of Nations. In this respect, the participation of Japan as a Great Power as well as a non-European Power must be regarded as of special importance. The previous pages also show that the participation of Japan in the League makes the work of the Assembly to form international policies not easier but more difficult. This was notably well demonstrated in the case of the Geneva Protocol. Japan was even alleged to be intending to wreck the Protocol.¹ But a more careful observation will reveal that such difficulty is merely an indication that the League is more than a European League. There are only two alternatives for the League. It must either be satisfied to be the League of European nations, limiting its activities within purely European affairs, in which case it will have an easier time; but will be far from what it was intended to be. Or, it must strive itself to become a true universal organization facing all possible difficulties which may arise from time to time.

¹ Cf. Statement of Prof. Tate, *Revue de Droit International et de Diplomatie*, April, 1925, p. 11.

CHAPTER III

THE COUNCIL

ITS STRUCTURE AND FUNCTIONS

As the assembly is compared with a Parliament or a legislature, the Council of the League is frequently referred to as the cabinet or the executive department of national government. Although much can be said for or against this parallelism it suffices to point out that in certain respects the Council of the League of Nations in its structure, as well as in its functions, resembles the cabinet or the executive department of national government.¹

The cabinet is relatively a small body; so is the Council. As the cabinet comprises relatively influential persons, so in the Council leading Members of the League are represented. It is the cabinet that is directly concerned with the ordinary administration of the State; so it is the Council that is responsible for the administration of the territories entrusted to the League and that supervises the humanitarian work of the League. It is the cabinet that must meet on emergencies, decide its policy, and act on it; so it is the Council that is habitually resorted to for the settlement of international disputes. Thus, the Council, like the cabinet in national govern-

¹ C. P. J. Noel Baker, *The League of Nations at Work* (London, 1926), chap. iii, pp. 32-55. "The Assembly is the Parliament of the international community of States; the Council is its Cabinet," p. 32; Pitman B. Potter, *International Organization* (New York, 1918), chap. xvii, xxiii. "The Executive Organ of the League is the Council," p. 308. C. Howard-Ellis, *The League of Nations, op. cit.*, p. 127; Roth Williams, *The League of Nations Today* (New York, 1923), chap. iii, pp. 45-49.

ment, is a more powerful and a more active body than the Assembly.

This analogy, however, should be qualified with at least two important exceptions. In the first place, the cabinet of the parliamentary form of government is in one sense the executive committee of the parliament representing the will of the majority of the latter. Therefore, in spite of the theory of the parliamentary sovereignty, the cabinet is the real ruler of the State. The Council of the League of Nations, on the other hand, is by no means the executive committee of the Assembly nor does it "rule" the league. The permanent Members of the Council, unlike the cabinet members, neither theoretically nor practically represent the will of the majority of the Assembly. They, like hereditary monarchs, hold their seats in the Council irrespective of their popularity or unpopularity under the very terms of the Covenant itself. Even the non-permanent Members of the Council hardly represent the Assembly. It is true that they are elected by the Assembly for a definite period; but the practice in the Council shows that their Representatives do not speak for the majority of the Assembly but for their own respective countries. Although there is a possibility that the League might develop in such a way as to have the Council entirely representative of the Assembly, the realization of such possibility seems still remote and uncertain. In the second place, the cabinet represents the parliament in the sense that it is composed of the leaders of the dominating party in the parliament. There is nothing analogous to party system in the League. Although there are "Little Entente", "the Latin American group" or "the former enemies" which may have a certain amount of solidarity among themselves, they are still far from being parties in the ordinary sense.

Having such similarities and differences between the cabinet

and the Council in mind, the structure and the function of the council will henceforth be discussed with special reference to a few points which have direct bearing upon the activity of Japan.

Those who compare the structure of the Council in its present form with its original plan will no doubt note a striking change, the modification of the principle that Great Powers alone should be represented on the Council. According to the Hurst-Miller Draft which was the preliminary agreement between the American and the British delegations and then the basis of discussion before the League of Nations Commission, the respective Representatives of France, the British Empire, Italy, Japan and the United States were to constitute the "Executive Council".¹

This idea of the oligarchy of Great Powers met a determined opposition by some of the small Powers represented on the League of Nations Commission, who insisted on the juristic equality of States. The final result was a compromise between the conflicting claims of great and small Powers, the establishment of two categories of Membership—permanent and non-permanent. Thus Belgium, Brazil, Spain and Greece were given non-permanent seats for the time being while the five Great Powers received permanent seats.²

Although the compromise was thus reached the Great Powers had numerical superiority to the small Powers by their five seats to four held by small Powers in the Council. Moreover, the actual authority of the League seems to have

¹ Miller, *Drafting of the Covenant*, vol. i, pp. 65-71, for the text of the Hurst-Miller Draft—see *Document 12*, Miller, vol. ii, pp. 131-141.

² The discussion on the composition of the Council took place at the second meeting of the League of Nations Commission, but its minutes do not show its full account. The most comprehensive account as to what did take place on this point is found in Miller, vol. i, chaps. xii, xiii, especially, pp. 146-164.

been vested in the Council alone rather than in the Council and Assembly equally, still less in the Assembly alone.¹

Although the relative authority of the Assembly has increased since 1920, the composition of the Council, that is, the numerical superiority of the Great Powers, continued until 1922 when the number of the non-permanent Members of the Council was increased to six.² In 1926 when Germany was added to the number of the permanent Members, the non-permanent members were increased to nine. Thus at present the small Powers have a numerical superiority of 9 to 5 over the Great Powers.³

In this respect any possibility that Great Powers might "run" the League through the Council by out-voting the non-permanent Members seems to have definitely disappeared.⁴ It is, therefore, reasonable to generalize that the evolution of

¹ Woodrow Wilson, who was the most influential of the drafters of the Covenant and also the champion of the rights of small nations said: "The whole direction of the action of the League is vested in the Council. The Council is the only part of the organization that can take effective action. Nothing in the form of an active measure, no policy, no recommendation with regard to the action of the governments composing the League can proceed except upon a unanimous vote of the Council." *Woodrow Wilson's Case for the League of Nations, compiled with his approval by Hamilton Foley* (Princeton University Press, 1923), p. 58.

Wilson is also recorded to have said that "the chief physical burdens of the League will fall on the great powers whether these burdens are military or economic" and that "the scheme is to have the Executive Council consist of the interested parties. The great powers are always interested..." Miller, *op. cit.*, vol. i, p. 146.

² *3rd Year Official Journal*, pp 1197-8, 1415.

³ The "Council Crisis" in *World Peace Foundation*, vol. x, pp. 143-168. *Minutes of the Committee on the Composition of the Council*, C. 299. M. 139, 1926 V. See also amended Article 4 of the Covenant.

⁴ There is even a suggestion that the distinction between the permanent and elective Membership of the Council should be entirely abolished and all Members of the Council should be elected by the Assembly, Rappard, in *Problem of Peace, op. cit.*, pp. 90-110. *The New York Times*, Jan. 20, 1929.

the Council from its inception to the present, in so far as its composition is concerned, has undergone three stages, the oligarchy of Great Powers, the numerical and probably political superiority of Great Powers, and finally the numerical superiority of small Powers. How it will evolve in the future is difficult to predict. However, the question which requires a special attention at present for the purpose of ascertaining the position of Japan as a Permanent Member of the Council is whether or not Great Powers represented on the Council by virtue of their permanent seats therein, and in spite of their numerical inferiority, still hold superior positions in the Council either as a result of the operation of the Covenant or by the force of actual practice. This question can be answered only after we have reviewed the functions of the Council. The functions of the Council as provided in the Covenant, may be for practical purposes classified under the following five groups: First, with reference to the Constitutional matters of the League under Article 4, Sec. 2; Article 6, Sec. 2; Article 26, Sec. 1; Second, with reference to the territorial integrity of the Members of the League and the settlement of international disputes under Articles 10, 11, 12, 13, 14, 15, 16, 17; Fourth, with reference to the administration of territories entrusted to the League under Article 22; and fifth with reference to the supervision of humanitarian and other non-political work of the League under Articles 23, 24 and 25.¹ The relative powers of the Great Powers in the Council will be examined in the light of these five functions of the Council. It is necessary to bear in mind at the outset that the elective Members of the Council, under the provisions of the Covenant, enjoy the same rights and privileges as the permanent Members as long as the former are members of the

¹ By treaty provisions not in the Covenant the Council is entrusted with several other functions such as the administration of the Free City of Danzig, the administration of the territory of the Saar Basin, the settlement of minorities questions, etc.

Council. Therefore the actual difference between the elective and permanent Members, if there is any, must be found in the indirect operation of the Covenant and not in the Covenant itself.¹

With regard to the Council's power in respect to adding the permanent Members of the Council and of amending the Covenant, Great Powers through their permanent seats seem to be able to exercise greater influence than the non-permanent Members. Although a single Member, whether permanent or non-permanent by the operation of the rule of unanimity, can veto any motion to increase the additional permanent Members of the Council or to amend the Covenant, the veto of a non-permanent Member can be overcome when the term of that Member in the Council has expired. The veto of a non-permanent Member, therefore, may be said to be relative and temporary. The veto power of a permanent Member is, on the other hand, absolute and permanent. It will prevent any fundamental change in the Constitution of the League. In this respect, the position of the Great Powers in the Council is distinctly superior to that of small powers.

With regard to the disarmament work of the League there is no such sharp difference between the Great and small Powers as in the constitutional matters. The disarmament work of the League is being chiefly undertaken at present by the Preparatory Commission for the Disarmament Conference which was created by the resolution of the Council of September 26, 1925. This Commission is composed of the Representatives of States Members of the Council and the "Representatives of countries chosen amongst those which,

¹ Sir Austin Chamberlain, referring to the difference between the permanent and non-permanent Members, said: "It is true that we arrived here by different routes, but once we have entered the Council chamber no difference exists between us. We all speak with an equal authority. The assent of every one of us is equally necessary to a decision by the Council..." *World Peace Foundation*, vol. x, p. 180.

by reason of their geographical situation, occupy a special position as regards the problem of disarmament and which are not otherwise represented on the commission.”¹

As a result, not only all Council Members regardless of their respective military or naval power are represented on the Commission but also countries outside the League, such as the United States and Russia, are participating in its work. This seems to indicate that the important duty of the Council with regard to disarmament under Article 8 of the Covenant, has virtually been shifted from the Council to the Disarmament Commission which is not strictly a League organization with regard to its composition.

As to the difference between the permanent and non-permanent Members of the Council it is true that the permanent Members are always represented in the Commission without special arrangements while the non-permanent Members must retire from the Commission when their terms as Council Members expire. But it is doubtful if the Council would refuse to re-elect such powers to the Commission if they demand that they are entitled to be re-elected to the Commission “by reason of their geographical position”. In fact the Council at its meeting on September 27, 1927 decided “to invite Belgium and Czechoslovakia, retiring Members of the Council and of the Preparatory Commission, to continue to give the latter their valuable assistance”.² Again on September 21, 1928 the Council decided to invite China and Colombia to continue their cooperation in the work of the Disarmament Commission after their respective terms as Council Members have expired.³ Therefore, although in the disarma-

¹ *Minutes of the Preparatory Commission for the Disarmament Conference.* C. P. D. I, p. 45.

² *8th Year Official Journal*, p. 1444. Salvador voluntarily retired from the Commission “so as not to increase unduly the number of Members of the Commission.”

³ *9th Year Official Journal*, p. 1654.

ment work the permanent Members theoretically enjoy greater privilege than the elective Members practically their difference is not sharply marked.

As to the fourth function of the Council, that of territorial guarantee and the settlement of international disputes, it appears to have a different aspect. Apart from the actual influence of the permanent Members of the Council as Great Powers, which is far more important than any other considerations, the permanent Members seem to be in a position to exercise greater authority than the elective Members.

The Representatives of the permanent Members of the Council may attend every meeting of the Council year after year without interruptions unless recalled by their home governments, while the Representatives of the elective Members can not attend the Council meetings more than three years at a maximum except on rare occasions when the Assembly re-elect them by a two-thirds vote. This fact is a real advantage to the permanent Members. Thus the Representatives of the permanent Members are in a more advantageous position in order to familiarize themselves with the technique and atmosphere of the Council. This familiarity is essential for them in order to act as mediators of international disputes. The usefulness of that atmosphere of the Council for the smooth functioning of the Council as a Mediator body in international disputes has been emphasized by one of the well-known authorities on the League; and this atmosphere is attributed by the same writer to the frequency of Council meetings. He says:

Its Members met together on no less than thirty-seven occasions in the first six years of the existence of the League, and it has rarely happened that a meeting lasts less than a full working week, while often it lasts more. Such frequent sessions have created by a gradual process common traditions and common ways of thought among the Council, while the quiet,

regular and orderly procedure which distinguishes their sittings has helped to build up that mutual confidence between its members which constitutes the real strength of any institution.¹

However, a more important reason why the permanent Members of the Council exercise greater influence than the non-permanent Members in the settlement of international disputes and the guarantee of territorial integrity, must be attributed to the fact that the permanent Members are Great Powers. Although this fact has no reference to the Covenant it is too important to ignore in the consideration of this particular function of the Council. As Wilson remarked, "the chief physical burdens of the League will fall on the great powers whether these burdens are military or economic." As long as the use of physical force as a means of settling international disputes is possible it is inevitable that Great Powers who actually possess great physical force, whether military, naval or economic, have great influence on the settlement of disputes between less powerful nations. However, another point which must be considered in this connection is the practice of the Council to appoint Rapporteurs from the Representatives of Members who are regarded as neutral to the disputes submitted to the Council, for their settlement or consideration. The Rapporteurs thus appointed by the Council or by its President make preliminary examinations of the subject in private and report their results (not infrequently with recommendations as to the method of their solution) to the public session of the Council,² and the decision of the Council on the question is usually made on the basis of the Rapporteurs' report and recommendations which

¹ P. J. Noel Baker, *op. cit.*, pp. 54-55; C. Howard-Ellis, *op. cit.*, pp. 451-53.

² *Rules of Procedure of the Council, 1st Year Official Journal*, pp. 272-74. Resolved at the meeting on May 17, 1920; *World Peace Foundation*, vol. xi, p. 168.

are often adopted as the resolution of the Council without further discussion. The Rapporteurs' powers and influence vary according to circumstances. But there is little doubt as to the importance and usefulness of the position of the Rapporteurs in making the work of the Council for settling international disputes effective and impartial. It must be obvious, however, that a Representative of a small Power with insignificant political background of his country would be placed in a disadvantageous position in acting as the Rapporteur in a dispute between countries which are more powerful than his own. For instance, the representative of Haiti or of Liberia, if then an elective Member of the Council, would not be very influential in persuading the delegates of the British Empire and France unless he is gifted with an exceptional personal ability which might over-balance the relative insignificance of his country. Generally speaking, therefore, it may be safe to conclude that as far as the function of the Council with regard to the guarantee of territorial integrity and to settle international disputes is concerned, a permanent Member is likely to exercise greater authority than a non-permanent Member.

With regard to the duty of the Council to administer territories entrusted to the League, no sweeping generalization should be made. It is true that Great Britain, France and Japan—all permanent Members—are mandatory Powers. But while Germany, a permanent Member, is not a mandatory Power, Australia and New Zealand, who have never been Council Members, are mandatory Powers. It appears, therefore, that as far as the administration of the mandated territories is concerned there is little evidence to support the conclusion that the permanent Members exercise greater authority than the non-permanent Members. Regarding the administration of the Saar Basin and the Free City of Danzig, Great Britain, France, Germany and Italy are generally more

active than other Powers. But it may be doubted whether this fact is due to the permanent seats of these Powers or their actual interest in these territories. The Permanent Members due to their continuity of service in the Council may have greater control with respect to the administration of these territories. Except this there is little difference between the permanent and non-permanent Members with regard to the administration of territories entrusted to the League.

As to the function of the Council to supervise the humanitarian and other non-political work of the League there is at least one evidence on the superior position of the permanent Members of the Council. In the Opium Convention signed at Geneva on February 19, 1925 it is provided that the Convention, "shall not come into force until it has been ratified by ten powers, including seven of the States by which the Central Board is to be appointed in pursuance of Article 19, *of which at least two must be permanent Members of the Council of the League.*"¹ The "seven of the States by which the Central Board is to be appointed" refers to the Members of the Council.²

Thus with regard to the Council's duty to supervise the Opium work of the League the permanent Members were in a privileged position. In cases other than this a distinction does not seem to have been made between the permanent and non-permanent Members of the Council with regard to the Council's supervisory function on humanitarian and other non-political work of the League. On the other hand, it can more reasonably be believed that so far as this part of the League's activities is concerned the relative importance of different States is largely proportional to the de-

¹ *Article 36 of the Opium Convention*, C. 88. M. 44, 1925, xi (O. D. C. 106 (3); O. D. C. 130 (1).) *Italicized by the author.*

² *Ibid.*, chap. vi, Article 19, paragraph 3.

gresses of their respective interests in particular subjects rather than to their positions in the League.¹

From the foregoing considerations of the composition and functions of the Council with reference to the relative authority of the permanent and non-permanent Members of the Council the following conclusions may reasonably be drawn: First, with regard to disarmament and the supervision of non-political activities of the League the difference of the degree of authority and influence attributable to the distinction between the permanent and non-permanent Membership in the Council is not so sharp. Second, with regard to the administration of territories entrusted to the League there is little difference between the respective authority of the two categories of the Council Members. Third, with regard to constitutional matters, the guarantee of territorial integrity, and the settlement of international disputes such difference is substantial. These conclusions may be summarized by saying that the permanent Members of the Council exercise greater authority and influence than the non-permanent Members in political matters (except disarmament) but not so in non-political matters.²

¹ The fact that all the permanent Members of the Council are represented in the government group of the Governing Body of the International Labor Office can not be taken as an evidence, because they are represented not by reason of their permanent Membership in the Council but by reason of their "chief industrial importance." Part xiii, Labor, of the Treaty of Versailles, Article 393 (7) paragraph 6, as amended on October 18, 1922.

² The slowness of the League's disarmament work may at least partly be attributed to the failure of distinguishing the permanent and non-permanent Members in the composition of the Disarmament Commission. It is a curious fact that the countries which possess no effective navies should be allowed to participate in the discussion of reducing the navies of Great Naval Powers. Such practice seems to multiply the work of the Commission unnecessarily and give opportunities to Members represented to utilize the Commission as a place for making political bargains instead of concentrating their effort on reducing armaments.

Apart from these technical considerations there can be no doubt that the permanent seat of the Council is an enviable position. The representative of a permanent Member may familiarize himself with the technique and the personnel of the Council by continuity of service. He is informed of all international questions which are discussed in the Council. He may even be able to learn a great deal about the intricacy of internal politics of other countries through their Representatives which is not available otherwise. Through his personal influence, he may prevent certain questions from being discussed in the Council, or he may encourage his colleagues to discuss such matters. Although these advantages cannot be estimated with mathematical accuracy, it is an undeniable fact that a permanent Member enjoys a far greater advantage than a non-permanent Member.

JAPAN IN THE COUNCIL

The relative authority and influence of the permanent and non-permanent Members of the Council having been examined, it is appropriate now to discuss the position of Japan as a permanent Member of the Council. However, prior to its discussion, it is necessary to consider whether or not Japan is a Great Power, for the assumption that only Great Powers occupy permanent seats in the Council rests on this fact. While little or no doubt has been entertained as to the fact that the British Empire and France are Great Powers opinions do not seem to be unanimous as to the position of Japan as a Great Power.

A virtual denial of Japan's being a Great Power was made by Mr. Robert Lansing, the Secretary of State of the United States in 1919 and also one of the American Delegates to the Paris Peace Conference. He says:

No matter what action was taken by Italy she would have con-

tinued to be a Great Power in any organization of the world based on a classification of the nations. If she did not enter the League of Nations under the German Treaty, she certainly would later and would undoubtedly hold an influential position in the organization whether her delegates signed the Covenant or accepted it in another treaty or by adherence. It was not so with Japan. There were reasons to believe that, if she failed to become one of the Principal Powers at the outset, another opportunity might never be given her to obtain so high a place in the concert of the nations.¹

Thus Mr. Lansing maintains that Italy will be treated as a Great Power regardless of her Membership in the Council, while "It was not so with Japan". As there is no accepted definition of Great Power the only possible test is whether or not a nation has been treated as such by other powers in their political relations.

It seems evident that Japan was treated as a Great Power when the Covenant was being drafted, for when General Smuts submitted his "*Practical suggestion*" for the League he wrote that "The British Empire, France, Italy, the United States, and Japan will be permanent members" of the Council.²

Robert Cecil, a British delegate, suggested that there should be "an annual meeting of Representatives of British Empire, United States, France, Italy, Japan, and other States recognized by them as Great Powers."³

The Cecil-Miller Draft of January 27, which was an amalgamation of British and American plans, likewise provides: "The H. C. P. appoint the following States Members of the League to constitute the Executive council of the

¹ Robert Lansing, *The Peace Negotiations* (Boston, 1921), p. 246.

² Miller, *op. cit.*, vol. ii, p. 41.

³ *Ibid.*, p. 61—Similar clause is found in the British Draft Convention, Jan. 20, 1919; Miller, *op. cit.*, vol. ii, pp. 107-108.

League: France, British Empire, Italy, Japan and the United States of America.”¹

“*The Draft Scheme of the Constitution of the Society of Nations*” submitted by the Italian delegation mentions in its preamble the names of the five Great Powers including Japan, and its Article 5 reads: “A Council, composed of a representative of each of the five Great Powers mentioned in the preamble. . . .”²

Mr. Hymans, a Belgian delegate, also suggested at the eleventh meeting of the League of Nations Commission that the members of the Executive Council “shall always include a citizen of the United States, the British Empire, France, Italy and Japan.”³

It was the German Draft alone that did not refer to Japan’s permanent Membership or anything of a similar nature. But it must be remembered that the German draft made no classification of nations based on their political importance.⁴

From these references it is fair to infer that the drafters of the Covenant were unanimous in recognizing Japan as a Great Power. The remaining question is whether or not Japan has ceased to be recognized as a Great Power since 1919. There is not a single incident which suggests that Japan has become a secondary Power since 1919. On the contrary, there have been several occasions indicating that Japan still maintains her status of 1919. On December 13, 1921 Japan concluded a treaty, generally known as the “Four Power Pact”, with the United States, the British Empire and France “with a view to the preservation of the general peace and the maintenance of the rights in relation to their

¹ Miller, *op. cit.*, vol. ii, p. 132.

² *Ibid.*, p. 248.

³ *Ibid.*, p. 338.

⁴ *Ibid.*, pp. 745-761.

insular possessions and insular dominions in the region of the Pacific Ocean"; and these Powers agreed "as between themselves to respect their rights" in these possessions.¹ On February 6, 1922 Japan concluded a naval treaty with the United States, the British Empire, France and Italy limiting her capital ships to the ratio of 3 as against 5 of the United States and the British Empire respectively and 1.67 of France and Italy.² Thus as far as capital ships are concerned Japan possesses the third strongest naval power—sixty per cent as strong as that of the British Empire or the United States.

Again in February 1927 an invitation was sent to Japan, Great Britain, France and Italy to attend a conference to be held at Geneva for the consideration of the limitation of vessels which had not been covered by the Washington Treaty, and this was accepted by Japan.³

Still more recently Japan was invited to become one of the original signatories of the Pact of Paris renouncing war as an instrument of national policy. This Pact as originally proposed by M. Briand of France was intended to be a bilateral treaty between the United States and France, and other Powers were to be invited to accept it after it had been signed by the United States and France. Mr. Kellogg, Secretary of State of the United States, was "not in harmony with the idea" suggested by M. Briand. He felt that "this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one or the other great powers. In such event the treaty could not come into force

¹ *Treaties of the United States*, vol. iii, p. 3094.

² *The Conference on the Limitation of Armaments, Minutes* (1922); R. L. Buell, *Washington Conference* (New York, 1922), p. 163.

³ *Records of the Conference for the Limitation of Naval Armaments* (Geneva, 1927), p. 9.

and the present efforts of France and the United States would be rendered abortive.”¹ Thus Mr. Kellogg suggested that “the government of France join with the Government of the United States in a communication to the British, German, Italian and Japanese Governments transmitting correspondence between the Governments of France and the United States for their consideration and comment. . . .”²

A formal note was sent to Japan, Great Britain, Germany and Italy on April 13, 1928,³ and a favorable reply was returned by the Japanese Government on May 26, 1928.⁴

These incidents indicate that Japan is still recognized as a Great Power as she was in 1919, and it seems reasonable to conclude that it is this fact of Japan's being a Great Power that conduced to her permanent Membership in the Council and not *vice versa*. Accordingly Japan's permanent Membership in the Council does not destroy the principle that Great Powers alone should hold permanent seats in the Council.

This will directly lead to the consideration of Japan's part in the various activities of the Council.

CONSTITUTIONAL MATTERS

The attitude of Japan in questions affecting the fundamental constitution of the League may be considered as conciliatory and disinterested.

The most serious constitutional crisis that the League had to meet during the past nine years was the so-called “Council Crisis” of 1926 created by the demands of Poland, Spain and Brazil for permanent seats in the Council as the condi-

¹ Letter of the Secretary of State to the French Ambassador, Jan. 11, 1928. *Int'l. Conciliation*, no. 243, p. 468.

² *Ibid.*, p. 470.

³ *Ibid.*, p. 478.

⁴ *Ibid.*, p. 490.

tion for admitting Germany to the League with a permanent seat in the Council. It happened that at that time Viscount Ishii, Japanese Representative, was the President of the Council. As a Representative of the Power which was not directly involved in the controversy and at the same time the President of the Council, Viscount Ishii had to assume the most difficult duty of conciliating Germany and France and the Powers supported by France. Unfortunately he could not successfully bring the controversy to an end.¹ After having consulted with his colleagues he recommended the Council to appoint a special committee to study a possible reconstruction of the Council. This recommendation was adopted by the Council on March 18, 1926 and the committee thus created began its work in May.²

During the sessions of this Committee (The Committee on the composition of the Council) the attitude of Japan was conciliatory. As a permanent Member of the Council, and also interested in the effective working of the Council, Japan was unwilling to increase the number of the Members of the Council. On the other hand, she saw a grave danger which might arise from refusing to change the status of the Council. However on the retention of the system of permanent and elective Membership in the Council her stand was very firm. Thus, at the outset of the discussion of the Committee the Japanese Representative clearly stated the position of his country that "the system of two categories should be maintained, for it was indispensable to the proper working and peaceful mission of the League".³

When Lord Cecil proposed to increase the number of the

¹ An unsuccessful but generous attempt of Viscount Ishii to bring Briand and Stresemann to an agreement is described in the *New York Times*, March 15, 1926.

² *7th Year Official Journal*, pp. 533-534.

³ *Committee on the Composition of the Council, Report on the Work of the First Session*. C. 299, M. 139, 1926, vol. v, p. 16.

non-permanent Members to nine, the Japanese Representative said that his Government

was opposed, in principle, to any increase in the number of Council Members. But owing to the ever-changing nature of world politics, it would not always be possible to retain the present number, and today there were considerations which should be borne in mind, since the object was to solve the crisis which had arisen at the special session of the Assembly. . .

“In these circumstances”, he said “if, after deep study, the machinery proposed by Lord Cecil appeared adequate to solve the present crisis, he was ready to vote with the majority”.¹

As to the principle of distributing the non-permanent seats to various Members of the League the Japanese supported the claims of China and South American countries that geographical considerations must be taken into account.²

As these official utterances of the Japanese Representative show, the position of Japan in the Council with regard to constitutional questions appears to be very conciliatory. It has been already observed that a permanent Member of the Council possesses the important power to veto any proposal affecting the fundamental constitution of the League. Up to the present Japan has not exercised such power. But it is not of little interest to observe the action of Japan, which possesses this significant veto power, in matters affecting the whole structure of the League especially in view of the fact that Japan is outside the “entanglement” of European politics. It is not inconceivable, for instance, that Japan might utilize this veto power in a possible attempt to divide the League into several groups so as to weaken the Council’s authority.³

¹ *Committee on the Composition of the Council, op. cit.*, p. 61.

² *Ibid.*, p. 87.

³ *Cf. infra*, pp. 166-168.

DISARMAMENT

In spite of the provisions of Article 8 of the Covenant the work to "formulate plans" for the reduction of armaments is being undertaken not directly by the Council but chiefly by the Preparatory Commission for the Disarmament Conference which was created by the Council. Some of the activities of the Japanese representative in that Commission will be discussed in the section on Committees and Commissions. It may be remarked at present, however, that there is an indication that the Japanese Government at the early stage of the disarmament work of the League preferred not to have small Powers participate in the preliminary discussion of the problem of disarmament. In replying to the letter of the Secretariat which had been sent to several governments in accordance with the resolution of the First Assembly inquiring if the Members of the League would consider the possibility of limiting the expenditure on their armaments in the following two financial years, Viscount Ishii explained the position of his Government, saying that:

It is the earnest desire of the Japanese Government that an agreement should be reached between all States for the simultaneous reduction of their armaments, in accordance with the spirit of the League of Nations and with a view to the maintenance of peace throughout the world. Nevertheless, in view of the fact that the Council of the League, by virtue of the provisions of the Covenant, is closely studying plans for disarmament, the Japanese Government does not consider that it would be advisable to take any action upon the recommendation of the Assembly until these plans have been completed.¹

Although it is not possible to state authoritatively the real reason of the Japanese Government for taking this action, one may reasonably infer from this letter that Japan pre-

¹ *2nd Year Official Journal*, p. 324.

ferred the discussion of disarmament problems with Great Powers alone for such procedure would yield more immediate results. Such inference seems to coincide with the fact that Japan accepted the invitation of President Coolidge to the conference of naval reduction in 1927 while France refused it on the ground that such attempt would interfere with the work of the League.

TERRITORIAL INTEGRITY AND THE SETTLEMENT OF
INTERNATIONAL DISPUTES

The important duty of the Council with regard to "the territorial integrity and existing political independence of all Members of the League" has not, since the establishment of the League, been generally regarded as practically enforceable.¹

As to the settlement of international disputes the League has rendered abundant successful examples. As most of the disputes considered and settled by the Council are European questions, the part played by Japan in this portion of the League's activities is not popularly known. Since the settlement of international disputes is a very delicate and complicated matter its procedure is accordingly informal and subtle and not fully recorded in the official documents. Perhaps no one except those who have actually conducted the affairs can approximately tell to what extent the Representative of a certain country rendered service in settling a certain dispute. Therefore, no attempt will be made to consider the activities and services of the Japanese Representative in the settlement of international disputes to any scientific accuracy. It is possible, on the other hand, to infer the importance of the Japanese participation from the official documents of the League.

¹ William Rappard, "The League of Nations as an Historical Fact," *International Conciliation*, no. 231, p. 289; W. Rappard, *International Relations as viewed from Geneva* (New Haven, 1926), pp. 129, 171.

It may be of value to record the number of the international disputes submitted to the Council for consideration or settlement in which the Japanese Representative actively participated either as Rapporteur or in other capacities. Such disputes since the establishment of the League up to the present, are as follows:

1. The Polish Minorities question, 1920 (*1st Year Official Journal*, pp. 31, 56).
2. Eupen and Malmedy, 1920 (*ibid.*, pp. 119-121).
3. The claim of India to be included in the Governing body of the International Labor Office, 1920 (*ibid.*, pp. 321-324).
4. The Aaland Island question, 1921 (*2nd Year Official Journal*, pp. 693, 694, 697, 698).
5. Violation of Austrian territory by Hungarian troops, 1921 (*ibid.*, pp. 1139-40).
6. The question of Upper Silesia, 1921 (*ibid.*, pp. 1220-1223, 982-3; *Minutes of the Extraordinary Session of the Council held from August 29 to October 12, 1921 to consider the question of Upper Silesia*).
7. Incursions of bands into the Frontier Districts of the States bordering on Bulgaria, 1922 (*3rd year Official Journal*, pp. 795, 797, 803-804).
8. The "Corfu Crisis" between Italy and Greece, 1923 (*4th Year Official Journal*, pp. 1274-1316).
9. Expropriation by the Roumanian Government of the Immovable property of Hungarian Optants, 1923 (*ibid.*, pp. 573-77, pp. 604-11, 886-903, 904-908).
10. Exchange of Greek and Turkish Populations, 1924, (*5th Year Official Journal*, pp 1663-70).
11. Protection of minorities in Greece and Turkey, 1925 (*6th Year Official Journal*, pp. 462, 557-8).
12. The expulsion of the Ecumenical Patriarch, 1925 (*ibid.*, pp. 482-484, 854-5).
13. Hungarian Roumanian Optants Dispute, 1927 (*8th Year Official Journal*, pp. 350-372).

The most interesting features are found in this list of cases. First, the questions in which the Japanese Representative took active part are all purely European matters, with the sole exception of India's claim for a permanent seat in the governing Body of the International Labor Office. Secondly some of these cases were of momentous importance, challenging the prestige or even the very justification for the existence of the League of Nations. Japan, by virtue of her geographical situation, had no direct and indirect interest in these matters except the desire of seeing the disputes settled peacefully. In order to understand the rôle played by the Japanese Representative as a neutral in these European questions, the Upper Silesia Question, and the Hungarian Optants dispute will be briefly discussed.

1. *Upper Silesia Question*¹

By the Treaty of Versailles Germany and Poland gave the Principal Allied and Associated Powers the right to determine the frontier between Germany and Poland in Upper Silesia by a plebiscite.²

This territory was inhabited by a mixed population of the Germans and the Poles and it was difficult for the Allies to reach an agreement among themselves on a satisfactory frontier line. France insisted that the territory should not be given to Germany for it would be contrary to the Treaty and an injustice to Poland. England, on the other hand, maintained that to hand over to Poland the territory on which large German industries had been established, would destroy the prosperity of the Poles as well as of the Germans residing in it. A plebiscite, as provided for in the Treaty of Versailles, to determine the frontier was regarded as neither

¹ *2nd Year Official Journal*, pp. 1220-1232, pp. 982-3; *Monthly Summary*, vol. i, pp. 75-78; *Minutes of the Extraordinary Session of the Council*, August 29-Oct. 12, 1921.

² Article 88 and its Annex, Article 90 of the Treaty of Versailles.

practical nor just, in view of the peculiar economic and industrial conditions in the region. Under such extremely difficult circumstances the Governments of the Allied Powers continued their negotiations for almost three years without any result. In August 1921, however, they finally agreed on the proposal of Lloyd George that they would request the Council of the League of Nations to recommend a satisfactory method for the solution of the problem. Thus on August 12, 1921 Briand on behalf of the Supreme Council, which had been in existence along with the League of Nations in order to meet the needs of the postwar period, formally sent a letter to Viscount Ishii, Japanese Representative, Acting President of the Council of the League of Nations, requesting him to have the Council intervene in the matter.¹

Viscount Ishii immediately replied expressing his hope that the Council of the League of Nations would accept the responsibility and would be able to present a unanimous recommendation as to the solution of the Upper Silesian problem. In the meanwhile he summoned an extraordinary session of the Council on August 29. This date is of special interest because the Thirteenth Session of the Council had decided on the date of the next session as September 1.² Although it is within the prerogative of the President to summon an extraordinary session in case of emergency and the question of Upper Silesia was undoubtedly of such nature as to justify the calling of an extraordinary session, it would be difficult to contend that the delay of three days, that is, from August 29 to September 1, would have prejudiced an effective working of the Council. Another reason for Viscount Ishii's resort to such a procedure must be found. It is likely that Viscount Ishii, being familiar with the personnel and the technique of the Council and likewise being

¹ *2nd Year Official Journal*, p. 982.

² *Minutes of the Thirteenth Council*, p. 61.

conscious of the responsibility of the Representative of a Great Power, thought it advisable to hold the situation as completely as possible by presiding at the meeting of the Council during the consideration of the problem. By the rules of procedure of the Council the President of the ordinary session is to preside over an extraordinary session which is summoned before the next ordinary session. Thus it seems that it was the sense of high responsibility of meeting the real need of the situation rather than any other consideration that motivated the Japanese Representative to resort to such extraordinary procedure.

When the Council met on August 29th, Viscount Ishii as Acting President asked M. Quinones de Leon, Spanish Representative, to accept the functions of Rapporteur, but as the latter declined Viscount Ishii himself undertook the task.¹

As Rapporteur as well as President Viscount Ishii first briefly surveyed various aspects and difficulties involved in the problem of Upper Silesia and called the attention of the Council particularly to the fact that

the results of the plebiscite in Upper Silesia were unfortunately not of a nature to allow the frontier line to be drawn according to the wishes of the population, nor did the economic and geographical conditions of the localities give any precise indications to show how a line should be determined

and emphasized that "the fact that the two considerations had to be taken into account only complicated the situation."²

After having distributed the documents containing the information on the problem, he moved that

in order to give time for a preliminary study of the documents

¹ *Monthly Summary*, vol. i, p. 76.

² *Minutes of the Extraordinary Session of the Council, August 29, Oct. 12, p. 9.*

at their disposal, it would be wise to adjourn the next meeting of the extraordinary session until Thursday, September 1st. During the interval, the President of the ordinary session, Mr. Wellington Koo, could convene the Council to deal with the Agenda of the ordinary session.¹

Mr. Balfour asked "if this proposal meant that Mr. Wellington Koo would be President of the ordinary session, while Viscount Ishii continued to be President of those meetings of the Council at which the question of Upper Silesia would be discussed." ²

The situation became undoubtedly delicate because Viscount Ishii while desiring to see the Upper Silesian question settled under his guidance must have been most unwilling to offend his colleagues, especially Mr. Wellington Koo, Chinese Representative, in respect to whose country Viscount Ishii had reason to have special concern. This seemingly delicate situation was smoothed by the intervention of Mr. Bourgeois. He said that "Mr. Wellington Koo would willingly consent that Viscount Ishii should preside since he had taken the preliminary steps in this question". This was willingly agreed by Mr. Koo.³ But M. da Cunha of Brazil disagreeing with this method of procedure, "expressed his surprise" and said that

the Council had been convened for an extraordinary session only in order to hasten the settlement of the urgent question of Upper Silesia. This seems to him to have already been accomplished and from this moment onwards the question, in his opinion, came within the scope of the ordinary session. He asked why the Presidency should therefore devolve on two Members of the Council at the same time. If this procedure were adopted the Council would, during one of its sessions, work in reality as a Committee.

¹ *Minutes of the Extraordinary Session of the Council, August 29, Oct. 12, p. 2.*

² *Ibid.*

³ *Ibid.*

While the Acting President remained silent Mr. Balfour interposed

that the Council had to adopt an exceptional method of procedure but that the circumstances themselves were exceptional. The Representative of Japan had made an admirable preliminary study of the question on behalf of the Council. He was therefore of opinion that the latter should be asked to continue to preside at those meetings devoted to the question of Upper Silesia.

This statement convinced the Representative of Brazil. "He bowed before the experience and authority of Mr. Balfour," and accepted the proposition of Mr. Balfour. But while recognizing "the competence of Viscount Ishii and that of all his colleagues" the Representative of Brazil was of the opinion that "if the Council was going to establish a precedent regarding this question, it might do so every time it had an important question on its Agenda." Mr. Leon Bourgeois again remarked that "the examination of the Upper Silesia necessitated a great deal of work on the part of the President, who could not undertake at the same time all the ordinary questions on the Agenda." Thus the Council finally decided to ask Viscount Ishii to preside at the extraordinary session while the ordinary session was to be held independently under the presidency of the Chinese Representative. The method of procedure having thus been decided, Viscount Ishii read the draft communique concerning the publication of the Upper Silesian question which he had prepared himself. It was approved by his colleagues.¹

At the second meeting of the Council on September 1 Viscount Ishii proposed to the Council that the further consideration of the question should be entrusted to the Representatives of Belgium, Brazil, China and Spain, "States which

¹ *Minutes of the Extraordinary Session of the Council, August 29, Oct. 12, p. 3.*

have so far taken no part in the preliminary investigations, nor in the discussions to which these investigations have given rise", and this proposal was warmly supported by all the Representatives.¹

Since the minutes of the subsequent meeting were not taken it is impossible to know the subsequent activities of Viscount Ishii on the question of Upper Silesia.²

Incomplete as the record may be, the foregoing pages would be a sufficient evidence to show the active interest of the Japanese Representative in a purely European question. As a more detailed discussion on this point will be given in later pages it suffices to note at present that the Japanese Representative at the League is no longer "a silent partner" but an active co-worker of the League machinery.

2. *Hungarian Optants Dispute*³

The dispute between Hungary and Roumania in 1923 arose out of the alleged mistreatment of Hungarian optants residing in Transylvania by the Roumanian Government. Since the parties could not reach an agreement by direct negotiations the Government of Roumania sent a formal request to the Council of the League of Nations on March 15, 1923 in accordance with Article 11 of the Covenant to consider the matter. Mr. Adatci, Japanese Representative, was appointed Rapporteur on this question and the question was put on the regular agenda at the seventh meeting of the Council on April 20, 1923.

Prior to this meeting Mr. Adatci had had intimate con-

¹ *Minutes of the Extraordinary Session of the Council, August 29, Oct. 12, pp. 4-5.*

² *Ibid.*, "Table of Contents" note 1.

³ *4th Year Official Journal*, pp. 573, 604-11, 886-903, 904-908; *La Reforme Agraire devant la Justice Internationale et Le Conseil de la Société des Nations Autres Opinions* (Paris, 1928); Francis Deák, *The Hungarian-Rumanian Land Dispute* (New York, 1928).

versations with the Representatives of both parties and prepared his report to be submitted to the full session of the Council.¹

At the beginning of the meeting Mr. Adatci advised the Council to have the Representatives of both parties present their cases before making his own report as to the method of solution. As this procedure was adopted Mr. Luckacs, Representative of Hungary, presented the case for Hungary. After having explained the situation as it had appeared to him, he requested the Council to declare that the measure taken by Roumania was contrary to Roumania's international obligations and that due compensation should be paid to the Hungarian victims. Mr. Titulesco, Representative of Roumania, on the other hand, contended that the Agrarian Law of Roumania, which had been alleged to have violated the treaty rights of Hungarian optants, had not been directed against the Hungarians and he requested the Council not to reopen this "dangerous question". As he heard the cases of both parties, Mr. Adatci, as Rapporteur, expressed his opinion that the explanations of the two parties had shown that the essential point at issue was the interpretation of the treaties. Therefore, he proposed that the Council should suspend the discussion in order to enable him to make a further study of the question.² Then the meeting adjourned and the discussion was postponed until April 23. Although it is not recorded as to what took place between these two meetings it is apparent that Mr. Adatci made a careful study of the problem in order to satisfy the Council as well as the parties.

At the fourteenth meeting on April 23, Mr. Adatci made a brief statement of the history of the dispute and summarized the arguments of the parties by saying "Having regard to

¹ *4th Year Official Journal*, pp. 573, 729.

² *Ibid.*, p. 577.

these considerations, I am of opinion that the most satisfactory method of reaching a solution would be for the parties themselves to submit the dispute to the legal authority set up in accordance with the Covenant of the League of Nations: The Permanent Court of International Justice.”¹ Then he submitted a draft which might serve as the basis for an agreement of the parties in referring the case to the Court, and proposed the following resolution to the Council:

“The Council recommends the two parties, under the guidance of the Rapporteur, to open negotiations forthwith for the purpose of signing a special agreement on the basis of the draft annexed to this report.”²

This recommendation was immediately accepted by Mr. Lukacs, Representative of Hungary, but Mr. Titulesco, Representative of Roumania, rejected it on the ground that the points involved were not purely legal and not suitable for a judicial settlement. The Roumanians were not affected by the argument of Mr. Adatci that “if the two parties could put themselves into agreement, the Court might be asked to decide the question of law and also to decide the case *ex aequo et bono*. Roumania would thus have all the guarantees for which she asked.”³

Then, Mr. Adatci made a new suggestion that the Council should ask for an advisory opinion from the Court. While this suggestion was again accepted by the Hungarian Representative it was opposed by the Roumanian Representative more vigorously than the previous suggestion. Thus the situation seemed hopeless. The President of the Council then proposed that the Council should postpone the discussion until the next session and also suggested that meanwhile

¹ 4th Year Official Journal, p. 605.

² *Ibid.*, p. 605.

³ *Ibid.*, p. 607.

the parties should endeavor to reach an agreement between themselves.

The situation was no doubt extremely trying to Mr. Adatci. Although he was representing a country having no particular interest in the dispute the apparent unsuccess of his effort must have caused a great deal of uneasiness to him as the Representative of a Great Power. He asked the President to relieve him from the responsibility of the duties of Rapporteur on this dispute. Several Members of the Council strongly urged him to reconsider his decision. It is probable that Mr. Adatci thought at this time that the only possible solution of this problem without prejudicing the authority of the Council, was for the Council to ask for an advisory opinion of the Court even without the consent of Roumania and he wanted to make sure whether such method of procedure would be acceptable to his colleagues. Thus, he asked the Council

if it thought that paragraph 4 of Article 15, concerning the right to vote of the representatives of the interested countries, was applicable in the case under discussion. Without an official interpretation of this paragraph which would give some hope of success in future negotiations, he was unable to accept the duties of Rapporteur since it would not be compatible either with his dignity or that of his country to do so.¹

To this important point the President's answer was non-committal. He said, "if a doubt existed as to the exact meaning of the terms of the Covenant, it would be possible to settle this difficulty before the next session of the Council" and he simply asked Mr. Adatci to continue to act as Rapporteur. The minutes of the meeting are not clear as to whether Mr. Adatci's point was generally acquiesced by his colleagues or not. But he said "If the members of the Council were

¹ 4th Year Official Journal, p. 611.

agreed on this point, [the votes of the interested parties do not count] he would endeavor to continue working for the good of the League".¹

The subsequent activities of Mr. Adatci in this case were carried on in Brussels, capital of Belgium, to which he was accredited as Ambassador of Japan. In May 1923 he invited Count Csaky and M. Gajzago, Representatives of Hungary, and M. Titulesco, Representative of Roumania, to Brussels where intimate negotiations took place under his chairmanship.²

The negotiations were fruitful and the document containing a tentative agreement reached by the parties was signed by Count Csaky, First Delegate of Hungary and by M. Titulesco. To the mind of Mr. Adatci this was for all practical purposes the settlement of the dispute. On July 12, however, the Hungarian Government sent a letter to Mr. Adatci rejecting the said agreement on the ground among others, that the Hungarian Representative had exceeded his power. So the whole discussion had to be reopened at the twenty-fifth Session of the Council. It appears that by this time the Council had become weary of this dispute; so in spite of a vigorous objection by the Hungarian Representative the Council adopted the report and recommendation submitted by Mr. Adatci and the whole dispute was at least temporarily dropped from the agenda of the Council.³ But the dispute was not settled and it is still pending in a different form. Therefore, with all due appreciations of his efforts, Mr. Adatci's work as Rapporteur can not be said to have been successful. However, a more important point for the purpose of this discussion is the fact that the Japanese Repre-

¹ *4th Year Official Journal*, p. 611. Paranthesis by the author.

² The outline of Minutes of the Negotiations are to be found in *4th Year Official Journal*, pp. 1011-1014.

³ *Ibid.*, p. 908.

sentative made a serious effort to bring about an agreement in a purely European dispute and that his action always commanded the whole-hearted support of the Council if not of the parties in dispute.¹

ADMINISTRATION OF TERRITORIES ENTRUSTED
TO THE LEAGUE

Japan's part in the administration of the territories entrusted to the League refers to the fact that she was one of the Principal Allied Powers rather than that she is a permanent Member of the Council. This statement seems to be true because from 1920 to 1923 when post-war Europe was still on unsteady ground, and the distinction between the former allies and the former enemies was still sharply drawn, the Japanese Representative was frequently called on to serve as Rapporteur on the administration of the Free City of Danzig although he has not taken active part in this particular work of the Council since then. Therefore, the part taken by Japan in the administration of territories by the League is practically confined to that of mandated territories. The attitude of the Japanese Government with regard to the mandates system, especially as to the Japanese Mandate, is well expressed in the utterances of the accredited representatives of Japan in the Mandates Commission and accordingly will be discussed in its proper place. In this chapter the attitude of the Japanese Government with regard to a certain principle applied to "C" mandates alone will be mentioned.²

¹ To this case the contribution of Viscount Ishii as Acting President of the Council at the time of the Corfu Crisis might be added especially in view of the fact that he as the Acting President of the Council was in a position to inform the Assembly of the progress made in the Council and to make the Assembly refrain from untimely debates at a most critical period. His official activities are found in *4th Year Official Journal*, pp. 1274, 1276-1282, 1283-1285, 1287-1290, 1294-1301, 1304-1310, 1313-1316; *4th Year Journal, Superficial Supplement*, pp. 59-60, 137-139 on the *Records of the Plenary Session of the Fourth Assembly*.

² As to the services of the Japanese Representative on the administra-

When the terms of the mandates were under consideration by the Supreme Council of the Allies, the Japanese Representative attempted to have the principle of economic equality applied to "A" and "B" mandates extended to "C" mandates. But this attempt was a failure chiefly on account of the objection of the British Dominions which desired to apply their own laws and regulations especially those concerning the immigration of Orientals to the territories under their mandates.¹ It seemed obviously unjust to the Japanese that the Japanese nationals in the territories under the Dominions' mandates should be less favorably treated by the Dominion's Governments than by the German Government before the war. Thus, at a meeting of the Council on December 17, 1920 Viscount Ishii read the following declaration concerning the "C" mandates in accepting the terms of the mandates agreed by other Powers:

From the fundamental spirit of the League of Nations, and as the question of interpretation of the Covenant, His Imperial Majesty's Government have a firm conviction in the justice of the claim they have hitherto made for the inclusion of a clause concerning the assurance of equal opportunities for trade and commerce in "C" Mandates. But from the spirit of conciliation and cooperation and their reluctance to see the question unsettled any longer, they have decided to agree to the issue of the Mandates in its present form. That decision, however, should not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous

tion of the Free City of Danzig see the following documents: 2nd Year *Official Journal*, pp. 150-170, 654-678; 3rd Year *Official Journal*, pp. 143-146, 667-670, 672, 673, 675, 676, 678, 1241-42; 4th Year *Official Journal*, pp. 202, 259-260, 203, 204, 260-262, 205, 231, 265-6, 378-9, 264-5, 202, 257-9, 885, 1283.

¹ *Assembly Document* 161, especially p. 21; Albert Millot, *Les Mandates Internationaux, Etude sur l'application de L'Article 22 du Pacte de la Societe des Nations* (Paris, 1924), especially pp. 61-72.

treatment in the mandated territories; nor have they thereby discarded their claim that the rights and interests enjoyed by Japanese subjects in these territories in the past should be fully respected.¹

Other than this important declaration which the Japanese Government still maintains there is no evidence that Japan is taking an active part in the mandates questions in the Council.

SUPERVISION OF NON-POLITICAL ACTIVITIES OF THE LEAGUE

The non-political activities of the League, such as the control of the traffic of opium and other dangerous drugs, or the prevention of contagious diseases etc, are chiefly being conducted by the commissions or committees appointed by the Council, the duty of the Council being simply to supervise them. As the Japanese Government sends to these organizations persons who act either with the direct instructions of or the general understanding of the Government, the part of the Japanese Representative at the Council is of secondary importance. A detailed discussion of the activities of the Japanese in the commissions or committees will be presented in a later chapter.

CONCLUSION

Japan's participation in the various activities of the Council having been reviewed in the preceding pages, it seems appropriate in concluding this chapter to consider in which part of the Council's activities Japan's participation is most significant.

Japan's part in the supervisory function of the Council may be of importance owing to the fact that she may be able to check the work of the committees or commissions subordinate to the Council through her seat in it. But it is difficult

¹ *2nd Year Official Journal*, p. 95. The economic equality clause which Japan attempted to insert in "C" mandates will be found in *3rd Year Official Journal*, pp. 859, 870 or *World Peace Foundation*, vol. vii, p. 299.

to contend that such is the most important participation of Japan in the Council.

The administration of territories would also fail to supply a good example because Japan is at present taking little part in the administration of Danzig, and the territories allotted to Japan under "C" mandates is not of first-class importance either from a political or an economic standpoint. Moreover, the division of the mandates was made without the consideration of their seats in the Council.

The potential importance of Japan's permanent Membership with regard to constitutional matters of the League has already been discussed. It is possible that Japan might utilize her veto power as a permanent Member in a matter which vitally affects her interest. The fact that she has some interests which are not well understood by European Members of the League adds such possibility as has been clearly demonstrated in the case of the Geneva Protocol. However, such importance is still potential and not actual.

These considerations having been eliminated, the most important effect of Japan's participation in the Council's work must be found in the council's duty to settle international disputes. The significant contributions of the Japanese Representative in this work of the Council have already been reviewed. It may be asked why Japan should take such active part in this work when she is detached from European affairs.

A possible answer seems to be found in the following considerations: In the first place, in the minds of the Japanese statesmen Europe always has some effects on the Far East. The European statesmen are in a position to adjust quickly the policies of their countries to changing circumstances on the continent. That is not the case with the Japanese. They must suddenly meet unexpected situations which are created in Europe without the knowledge of Japan. Therefore, it

is the interest of Japan to take every possible opportunity to keep in touch with European affairs however remote they may appear. It is interesting to note that this very point has been expressed by the Japanese Representative in the Council. At the third meeting of the Council on June 6, 1928 when the question with regard to the expulsion of Polish nationals on Lithuanian territory was under discussion, Mr. Adatci said, "Although Japan was very distant from Europe, it had a great interest in European peace, for it knew that a small conflict on any European issue might, according to the circumstances, entail consequences dangerous to world peace. . . ." ¹ It is true that Japan can keep in touch with European affairs through her ambassadors or ministers sent to the European capitals. It is also true, that there is no place but Geneva where the prime or foreign ministers of all leading European countries are gathered and discuss in public or in private international questions of first magnitude. Japan, while not being able to send her prime or foreign minister to Geneva owing to her geographical difficulty, is able to avail herself of the most reliable international barometer through her seat in the Council.

There seems to be another advantage to Japan in keeping closely in touch with European affairs. It is certain that the Japanese Representative, by contributing to the peace of Europe, is increasing the prestige of his country. The abstention of the United States is often regarded as prejudicial to the moral prestige of the United States. Although there is a marked degree of difference in the respective influence of the United States and Japan, it is possible that Japan might gain her moral prestige by taking her due share in European affairs in which she has no selfish interests. ²

¹ *9th Year Official Journal*, pp. 894-5.

² David Miller, author of the *Drafting of the Covenant*, once remarked

These advantages of Japan must be reciprocally beneficial to the Council. The interests of the European Members of the Council are so complicated that they will occasionally find themselves in a very difficult position to act as mediators in international disputes. In such cases they may conveniently shift their burdens to Japan whose interests are not directly involved.

that Japan in taking active part in European affairs is following the example of Italy when the latter became a Great Power by participating in matters which had no direct concern to herself.

CHAPTER IV

THE SECRETARIAT¹

THE Secretariat of the League of Nations may be compared to the civil service of national government. It is the administrative and not political branch of the League. Thus, unlike the Assembly or the Council, the members of the Secretariat are not government representatives but servants of the League and are responsible to it alone. This point has been emphasized by the British Representative at the Fifth session of the Council. He said in part that the members of the Secretariat once appointed were "no longer the servants of the country of which they are citizens, but become for the time being the servants only of the League of Nations" and that "their duties are not national but international".² Since the Secretariat was intended to be the body whose function is simply to carry out the decisions of the Assembly and the Council, it is proper that the members of the Secretariat be independent of the governments of the different States which constitute the League.³ This theory, however, is not realized in practice at present. Ac-

¹ Potter, *op. cit.*, pp. 373; Howard-Ellis, *op. cit.*, pp. 163-205, 480-482.

² *1st Year official Journal*, pp. 136-139.

³ There can be no doubt that the Secretariat was intended to be as independent as possible of the control of the governments of the States Members of the League; Sir Eric Drumond's statement in the Process-Verbal of the Fifth session of the Council, p. 219, and also his own article contributed to the *World To-day* of March, 1924, which is quoted in Howard-Ellis, *op. cit.*, pp. 171-172.

cording to the "*Staff List of the Secretariat*" submitted to the Eleventh Ordinary Session of the Ninth Assembly,¹ the Secretary-General is a British citizen, the Deputy-Secretary-General a Frenchman, the three Under-Secretaries-General an Italian, a German and a Japanese, and seven out of eleven Directors or chiefs of "Sections" are nationals of Great Powers.² Moreover, three out of four Deputy and Under-Secretaries-General are professional diplomats chosen after close consultations with their respective governments and accordingly enjoy the latter's full confidence.³ Therefore, in spite of the theory that the members of the Secretariat are "no longer the servants of the country of which they are citizens" and in spite of the pretence that the function of the Secretariat is administrative and not political, it appears that there is a great deal of political consideration in appointing the high officials of the Secretariat. On the other hand, with regard to the minor officials of the Secretariat and its servants, who are of little or no political importance, a different situation is witnessed. The total number of the British members is 143, that of the Swiss 126, the French 100, while that of the Italians is 23 and Germans only 11.⁴

From these figures it appears that the two different principles are applied with regard to the appointment of the high

¹ *9th Year Official Journal*, pp. 1860-73.

² International Bureaux Section held by a German, Political Section by a Japanese, Information Section by a Frenchman, Economic and Financial Section by a British, Mandates Section by an Italian, Communications and Transit Section by a French, Health Section by a Polish, Social Section by a British, Disarmament Section by a Norwegian, Legal Section by an Uruguayan, Minorities Section by a Spanish National.

³ Rappard, *Problems of Peace*, *op. cit.*, p. 29.

⁴ These figures exclude the members of the House Staff who are almost exclusively Swiss.

officials and the low officials, the former being political and the latter purely administrative.

The position of Japan in the Secretariat will be observed from this point of view.

When the League of Nations was established it was understood that one of the Under-Secretaries-General was to be chosen from Japan. Thereupon the Japanese Government decided to recommend a candidate chosen from laymen and not professional diplomats; for the Secretariat was intended to be "the international civil service" devoid of political influence; but it was not easy for the Japanese Government to find such a man. It was difficult because first of all he must speak English and French fluently. He must be a man of high reputation not only in Japan but also abroad; he must have a pleasing personality in order to give good impressions of his country; yet he must be neither a diplomat nor a politician. The Japanese Government finally saw all these qualifications in Dr. Nitobe, and thus he was offered the responsibility of undertaking the task.¹

Dr. Nitobe is a man of high moral and scholarly reputation. Having been educated in America, he is very familiar with the western way of doing things. But being entirely a layman in diplomacy he hesitated to accept the offer. He told the Government that if he accepted the position he could have little to contribute. The Government assured him that they had confidence in him. Because of this assurance he accepted the offer and went to serve as the Under-Secretary-General as well as the Director of the Section of International Bureaux until 1926.

It is not possible to disclose exactly what he has accomplished at Geneva during his six years' service. But with his high moral and intellectual attainments and with his ex-

¹ The choice of Dr. Nitobe is said to be chiefly due to the advice of Count Goto, one of the elderstatesmen of Japan and practically the author of the Russo-Japanese Treaty recognizing the Soviet Government.

tremely pleasing personality Dr. Nitobe must have exerted a considerable moral influence at Geneva.¹

In December 1926, a notable change took place when with the retirement of Dr. Nitobe, Dr. Sugimura was appointed the Under-Secretary-General as well as the Director of the Political Section. Unlike Dr. Nitobe, Dr. Sugimura is a trained diplomat and has been present at several League meetings as the Japanese representative, such as the meetings of the Opium Committee, the Mandates Commission, the Committee on Women and Children, etc. The reason why the Japanese Government selected him may go hand in hand with the growing tendency for governments to attach great political importance to the Secretariat by sending trained diplomats through whom they may protect and advance their national interests.²

Although the exact degree of Dr. Sugimura's importance as the Director of the Political Section cannot be ascertained with accuracy, there can be little doubt that his rich diplomatic experience, his familiarity with the personnel and the machinery of the League, and his influence on his Government are a great asset to Japan as well as to the League. Moreover he has a personal affection for the League. As one of the officials of the International Labor Office has said in his recent visit to New York, Mr. Sugimura's love for the League is so great that he identifies himself with the League.

The Political Section of which he is the Director is considered as the most important of all the sections. It is in some respects "the Foreign Office" or "the Department of State" of the League.³ It is responsible for all the political

¹ The above information has been obtained from Dr. Ayusawa of the International Labor Office who is a close friend of Dr. Nitobe.

² Howard-Ellis, *op. cit.*, pp. 197-205.

³ Potter, *op. cit.*, p. 378.

questions notified to the Secretariat. When any Member of the League gives notice of the existence of a dispute likely to lead to a rupture under Paragraph 1 of Article 15 of the Covenant, it is on the Political Section that the duty falls to "make all necessary arrangements for a full investigation and consideration" of such a dispute. It also deals with the questions referred to the Council under Articles 10, 11 and 17, and also the questions of sanctions under Article 16.¹ Thus this section, like the Department of State, is the most conspicuous of all sections in the Secretariat, and in fact its Director may display a great influence in settling international disputes submitted to the Council through the Secretariat before they are formerly discussed by the Council. That he is vested with substantial authority in questions of great importance may well be inferred from the fact that the discussions held in the Council meetings on international disputes are frequently so formal that it appears as if the real work has already been done outside the Council chamber. Needless to say, the actual power of the Director differs according to the circumstances and also to his personal ability. In view of his well-known ability and his active interest in the League, it is likely that he will exercise the maximum authority entrusted to him to increase the prestige of his country as well as of the League of Nations.

The number of the Japanese members in the Secretariat is a sharp contrast to the great importance of the post held by Dr. Sugimura. According to the most recent list of the Secretariat's Staff there are only five Japanese members. This figure is surprisingly small when it is compared with 143 of the British, 100 of the French, 126 of the Swiss, and even 23 of the Italians.² However there should be made no sweeping generalization from these figures alone. Al-

¹ Howard-Ellis, *op. cit.*, pp. 185-186.

² 9th Year Official Journal, pp. 1860-1873.

though the number of the British, Italian and the Swiss is large, there are included typists, copyists, stenographers and translators who have no political or administrative importance. The Japanese members, on the other hand, are all in some responsible positions. Not to speak of Dr. Sugimura's post, the remaining four Japanese are given offices of some importance. Mr. Aoki is one of the correspondents sent to the capitals of the Five Great Powers. Mr. Harada, member of the Political Section, Mr. Furukaki, member of the Information Section, and Mr. Kusama, member of the Health Section, are all "members of sections".¹

Thus although there is a marked numerical inferiority, it can be assumed that Japan is given a due regard in the composition of the Secretariat.

¹ "Members of Sections and Officers of equivalent Grades (Classes B and A).—These officers perform important duties. Under the direction of the high staff they carry out all the intellectual and administrative work of the Secretariat. These require high educational qualifications, and, in the upper ranges, demand very considerable capacity and qualities of initiative and resources..." *Report on the Organization of the Secretariat and of the International Labor Office to the Second Assembly—Records of the Second Assembly, Meetings of the Committees*, p. 190.

CHAPTER V

COMMISSIONS AND COMMITTEES

IN GENERAL

THE Commissions, Committees and "Organizations" created by the League of Nations and affiliated with its Secretariat may be classified into three groups, according to their nature.

First there are three Technical Organizations, the Economic and Financial Organization, the Transit and Communications Organization, and the International Health Organization. These Organizations, although they are under the financial control of the League, possess a great deal of independence in their actions. They have their own standing committees or sub-committees appointed either by the Council or by the governments which are interested in their work, hold conferences from time to time, and have their secretarial offices which are sections of the Secretariat of the League. Thus in this respect they resemble the organization of the League of Nations itself. Since the chief purpose of these organizations is to promote international cooperation through the experts on technical matters and not by diplomats or politicians they are relatively free from national policies.

In the second place there are six permanent Advisory Committees, the Permanent Advisory Committee on Military, Naval and Air Questions, the Permanent Mandates Commission, the Advisory Committee on the Traffic in Opium and Other Dangerous Drugs, the Advisory Com-

mittee on the Traffic in Women and Children, the Advisory Committee on Child Welfare and the Committee on Intellectual Cooperation. While the first two are set up under the provisions of Articles 9 and 22 respectively, the remaining four were created as a result of the action of the Assembly chiefly in order to fulfil the duties of the League in Article 23 of the Covenant. The existence of these Committees is deemed justifiable not only because the enormous amount of activities which the League has to undertake under the Covenant, compels the Council and the Assembly to rely for their actions on more specialized bodies, but also because the Council, which is constituted for political reasons, may or may not include countries which are vitally interested in the subject matter. China, for instance, is vitally interested in the problem of opium although she is not a Member of the Council. If the Council alone were to deal with this question the Chinese view would be entirely unheard in its meetings and consequently its work would be ineffective.

In the third place, there are created from time to time special temporary committees, such as the Preparatory Commission for the Disarmament Conference, the Temporary Mixed Commission, the Commission of Experts for Drafting the Statute of the Permanent Court of International Justice, etc. They are appointed by the Council in accordance with the resolution of the Assembly, and their mandates and composition vary according to their nature and purpose.

Much can be said as to the usefulness of these organizations in accomplishing the purpose of the League, especially with respect to international cooperation; but there should be made at least the following two observations. Inasmuch as the League is lacking universality, and international cooperation is not effective unless it is universal, there is a great need of an instrument through which the League Members and non-Members may cooperate without either

prejudicing the authority of the League or imposing undesired obligations on the non-Members. Such need is especially urgent in view of the absence from the League of the United States and Russia, whose cooperation is most useful in any first-rate international question. Because these Organizations and Committees, unlike the Assembly and the Council, are advisory and investigating bodies and not decision-making bodies, non-Members may safely express their views and render their services without at the same time binding themselves to their expressions. In the second place these bodies, owing to their highly specialized character, are competent to tackle the problems assigned to them in detail and with great precision. In fact their competence has been so well recognized by the Council and the Assembly that the latter frequently adopts the recommendations of the former simply as a matter of formality. As a result the number of meetings of these organizations is increasing from year to year, as the following figures show :

Year	Total		Council	Assembly	Commissions Committees
	Number of Meetings				
1920	23		11	1	11
1921	37		5	1	31
1922	47		6	1	40
1923	67		5	1	61
1924	86		5	1	80
1925	94		5	1	88
1926	105		6	2	98

(Cf. Rappard's figures, *Problems of Peace*, *op. cit.*, p. 34.)

With the evolution of these organizations the significance of Japan's participation has become more conspicuous, for either as the authorized representatives, or merely as the experts, Japan sends her nationals to most of these organizations, such as the Committee on the Codification of International Law, the Committee on Armaments, Temporary Mixed Commission for the Reduction of Armaments, the

Coordination Commission, the Economic Committee, the Financial Committee, the Advisory Committee for Communications, the Health Committee, the Committee on Allocation of Expenses, the Advisory Committee on the Traffic in Opium and other Dangerous Drugs, the Advisory Committee on the Traffic in Women and Children, the Permanent Mandates Commission, and the Disarmament Commission, etc. Thus the extent of Japan's Membership is so broad that in this limited space it is not possible to review her participation in all of the organizations. Therefore it may not be inappropriate to examine her activities where her interest is mainly involved. For this reason the Advisory Committee on the Traffic in Opium and other Dangerous Drugs, the Permanent Mandates Commission and the Preparatory Commission for the Disarmament Conference may be selected with the object to study the evolution of Japan's activities in these Committees.¹

THE ADVISORY COMMITTEE ON THE TRAFFIC IN OPIUM AND OTHER DANGEROUS DRUGS

The Advisory Committee on the Traffic in Opium and other Dangerous Drugs was appointed by the Council in accordance with the resolution of the Assembly on February 21, 1921. The Committee thus appointed includes the "representatives of the Countries chiefly concerned, in particular Holland, Great Britain, France, India, Japan, China, Siam, Portugal." Besides the representatives mentioned above who are appointed by their respective Governments, the Council was "authorized to add to the Advisory Committee in the capacity of member or assessor a representative of any such country which is specially concerned in the traffic, and that a special invitation be addressed to the United

¹ The Economic Committee should be mentioned. Its omission is due to the inability to obtain the Minutes of the Sessions.

States of America," and also "if and when they think it necessary, to add as assessors to the Committee not more than three persons not representatives of Governments, having special knowledge of the question."¹ These assessors as League officials "shall have the same rights as Members, except the right of voting and the right of being elected chairman or vice-chairman of the Committee."² Thus it should be observed that the Advisory Committee comprises "the representatives of the countries chiefly concerned" with the traffic in opium and other dangerous drugs. Therefore, however each representative acts at the Committee, he is responsible for his Government unless otherwise expressed. The task before the Committee is intricate. It must urge the Governments to control the illicit traffic by enforcing supervision over the import and export of the drugs, exchanging all information about production, manufacture and by reducing the manufacture of opium and other dangerous drugs to the point of common agreement needed for medical and scientific use, and assisting each other in police work.

Japan has a seat on the Committee because she is one of the countries "chiefly concerned" in the problem. In order to make the work of the Committee successful it is necessary for the Committee to have the cooperation of each representative whose Government is interested in the matter. In this sense it is important to observe the attitude of the Japanese member of the Committee. The minutes of the sessions suggest that although his attitude was in the beginning not only passive but also defensive, it has gradually

¹ C. 77. M. 39, 1921, XI, p. 26.

Italy and Bolivia added in 1927, C. 29. M. 19, 1927, XI, p. 1.

Switzerland added in 1925, C. 602. M. 192, 1925, XI, p. 6.

Germany added in 1922, C. 416. M. 254, 1922, XI, p. 5.

The Kingdom of the Serbs, Croats and Slovenes added in 1924, C. 397. M. 146, 1924, XI, p. 6.

² C. 77. M. 39, 1921, XI, p. 57.

changed to active and cooperative. The first evidence of the former attitude may be illustrated at the First Session when the Japanese representative was reluctant to speak. During the discussion on the answers given by the Japanese Government on the Questionnaire, Sir John Jordan, expert on the Far Eastern Problem, enquired why there was such an increase of the imports of morphia to Japan between 1910 and 1920. The Japanese representative's reply was brief. "Before the application of the Convention the imports were in excess of requirements, but that the imports which had taken place in 1920 were not intended to be consumed in a single year, and that the surplus might be still in stock." Dissatisfied with this brevity Sir John Jordan asked the Japanese representative "for a more complete statement." Again the Japanese representative's attention was called to a letter from the British Minister in Peking dated December 16, 1921 reporting that "the seizures at Tientsin of 300 elbs of heroin concealed in a consignment of sulphate of soda on a Japanese ship loaded at Osaka." This heroin had been manufactured by a Japanese firm and the Chairman asked the Japanese representative how such a large quantity could have reached the hands of the smugglers when they were made in a licensed factory. The Japanese representative answered shortly that "this was the first he heard of this. . . ." ¹ If he heard of it for the first time it is unfortunate, for the Japanese representative ought to be prepared for any argument that may occur in order to represent his Government satisfactorily. On the other hand, if he had been informed of the incident but was silent for a motive other than that of altruism it may be argued that he was not cooperating with the Committee.

When the question of the discrepancy between the British and the Japanese returns was pointed out Sir John Jordan

¹ C. 416. M. 254, 1922, XI, pp. 28-31.

said that 1,703 kilos that had entered Japan in 1921 from England could not have been exported from England according to the British representative. Therefore he wished to ask the Japanese representative for an explanation. The Japanese representative replied that "statistics showed that 1,703 kilos were imported from England." Sir John Jordan, assessor, "reiterated that, as Sir Malcolm¹ had said, that was impossible." The Japanese representative insisted "that there was no mistake in the statistics." Sir John Jordan suggested "that the drugs might have been smuggled." The Japanese representative replied that "there was no smuggling."² The type of answer given by the Japanese representative may be more appropriately found at the cross-examinations. He leaves the impression that he was unwilling to express himself freely. Why did he show such constraint? Although there is no proof for it, it may be worth while to surmise its reasons. In the first place the Japanese by disposition are not talkative. This may explain why the Japanese representative declined chairmanship and vice-chairmanship at several sessions.³ In the second place the Japanese delegation might not have realized the importance of publicity over the immediate national interests. Therefore they struggled more to defend Japan's position than to show that Japan was eager to stand with other nations to combat the illicit traffic. In this way the attitude of the Japanese delegation at the first few sessions was passive. This tendency has, however, been disappearing and at the recent sessions they have come to show more cooperative

¹ British representative.

² C. 418. M. 184, 1923, XI, p. 34.

³ C. 602. M. 192, 1925, XI, p. 7 (Seventh session).

C. 397. M. 142, 1924, XI, p. 7 (Sixth session).

C. 324. M. 88, 1928, XI, p. 7 (Eleventh session).

C. 393. M. 136, 1926, XI, p. 6 (Eighth session).

C. 86. M. 35, 1927, XI, pp. 7-8 (Ninth session).

spirit. Their attitude has first transformed itself into conciliation. At the Seventh Session Dr. Tsurumi, Japanese representative and also an active member of the Health Committee, asked the Indian representative if he could give to the Japanese "any assurance on any measures which has been proved to him successful," for Japan had to face the same difficulty which India had confronted. As Sir John Campbell, Indian representative, admitted there was a leakage of opium out of his country in spite of the rigid control by the Government, and "as regarded smuggling, the arrangements were as complete as they could be made. All opium produced was most rigidly controlled by the Government." Dr. Tsurumi emphasized that Japan was facing the same difficulty, urged the Indian colleague to cooperate with him, and assured him that "I shall not fail to transmit it to the Japanese Government with my recommendations."¹

Again the same Japanese representative emphasized the cooperative spirit of the Japanese Government, declaring that "it is the desire of the Japanese Government to do all that it can in order to enlist the cooperation of all the Governments concerned in the seizures." As to the method of cooperation, he continued, the Japanese Government desired that "the seizures may be immediately communicated to the diplomatic or consular agents of the countries concerned." In exchanging information on the seizures it "must be very thorough and must give all the details of the persons involved, the movement of the conveyances, as well as the origin of the seized article and the method by which the contraband traffic is discovered." He agreed with the British representative that "it would be very useful if the simultaneous investigations of the various Governments into seizures of any magnitude were to be coordinated by the Secretariat and circulated for the information of the Com-

¹ C. 602. M. 192, 1925, XI, pp. 15, 93.

mittee," for "up to the present we have seen that numerous reports were issued without any detail of the seizures and the Governments are therefore at a loss to proceed even with the preliminary enquiry."¹

The necessity of international cooperation is adequately illustrated at the Eighth Session when Mr. Sugimura cited the following case and urged the cooperation of the Committee. There was a

person called Greene, who was an American. The British authorities had confiscated the goods in question. The Japanese Consul at Vancouver had telegraphed to Tokio and at the same time the British Ambassador had warned the Japanese Government. Greene on his arrival at Yokohama had been met by the police authorities. Enquires had been made, but no evidence was found against him. Greene had probably been warned by wireless or some other means. He had subsequently gone to Tientsin to which place he had been traced but it was impossible for the Japanese authorities to bring home the offence.

In this case, in Mr. Sugimura's opinion, "some further arrangement was necessary to control the offenders besides the confiscation of the goods," and he suggested that "this control might be facilitated by arranging further telegraphic exchanges of information between the competent authorities."²

On the legal side, referring to the difficulty arising from the legal system in Japan, Mr. Sugimura said that "according to the present law in Japan, it was not possible to suppress cases of smuggling committed outside Japanese jurisdiction. Further, respect for freedom of contract, which was a fundamental principle of private law, made it difficult to stop or arbitrarily interfere with a freight contract,"³ and he asked the Committee if it

¹ C. 602. M. 192, 1925, XI, pp. 51-52.

² C. 393. M. 136, 1926, XI, p. 55.

³ C. 393. M. 136, 1926, XI, p. 64.

could inform him whether there was any law or decree in their own countries giving the Government power to prevent the conclusion of a freight contract. This would be of great assistance to the Japanese Government, which did not feel capable of taking such an immediate decision, though it was ready to respect the principles of international law.¹

Again calling attention to the difficulty of suppressing trade carried on by a vessel flying the Japanese flag and chartered by a national of another country, he said that "it would be of interest to discuss how such contraband should be suppressed by means of close cooperation between the lawyers of all countries, for it should not be forgotten that this question raised important legal issues."² He went on to ask the Committee "to help the Japanese Government to draft laws or regulations which would be effective in practice. The cooperation of the Committee would be of great use to Japan, which required information. A mere recommendation was not enough. Japan must be shown how to suppress the traffic."³ No one can well deny the frankness of the Japanese representative in his willingness to cooperate with the Committee in the effort to suppress the illicit traffic. The statement of Mr. Sugimura speaks for itself to show how much Japan now is depending on the Committee, and how the attitude of the Japanese delegation has changed

¹ C. 393. M. 136, 1926, XI, p. 64.

² *Ibid.* The difficulty referred to by Dr. Sugimura might more properly be said to be practical than legal. When smuggling is carried on by a vessel flying the Japanese flag and chartered by a national of another country and when the same vessel is found in the Japanese territorial water, the Japanese authority can seize it without difficulty. On the other hand, when the same vessel is on the high seas navigating between two foreign ports there would arise a great practical difficulty for the Japanese Government to enforce its law because the only possible way to enforce it would be to send a cruiser to seize the vessel which would be quite expensive, although there would be no legal difficulty in doing so.

³ *Ibid.*, p. 65.

since the beginning. The explanation of such a remarkable change may be found in the personal influence of the Japanese representative. The Japanese cooperation in the work of the Committee owes a great deal to Dr. Sugimura, a distinguished jurist, an experienced diplomat gifted with linguistic ability, as well as a well-known athlete in Japan. Naturally his influence in the Japanese Government is tremendous. As Mr. Sato, the present Japanese representative on the Committee, said at the Ninth Session, the administrative measures taken by the Japanese Government with regard to the traffic in opium were chiefly due to Dr. Sugimura's influence.¹ As he enjoys the confidence of his Government, handicapped neither by language nor experience, Dr. Sugimura is in a position to take, and has taken, a most active part for the good of the Committee as well as for the reputation of his country.

With the evolution of the attitude of the Japanese delegation in mind it may be appropriate to seek in what sense Japan's membership has a value to Japan. On one hand it is through the medium of the Committee that Japan can demonstrate her earnest effort to control the illicit traffic, and it is by means of the Committee that Japan's actions can be revealed to the outside world at first hand. As indicated, Japan did not take this advantage in the beginning when she entered the Committee but gradually she has come to realize the value, and during the last few years she has not failed to utilize it to its full extent. On the other hand, Japan's presence on the Committee is necessary in order to give adequate explanations or to correct misunderstandings when such occasions arise. Especially when the Far Eastern question is discussed it is essential that the Japanese representative should be present, since the occasion for explana-

¹ C. 86, M. 35, 1927, XI, p. 110.

tions is more likely to arise then. A recent incident at the Session of 1929 may suffice to show this importance.

Japan's intervention in Shangtung, as well as her alleged protection of illicit dealers in narcotics in China, was assailed today at the League of Nations opium conference by the Chinese delegate, Wang King-Ky. Great Britain was also mentioned and the representatives of Tokio and London resented the remarks so strongly that the meeting adjourned until tomorrow without acting on M. Wang's recommendations. . . ." The speech drew emphatic protest from the Japanese and British delegates, who demanded that it be excluded from the League records, or, if permitted to appear, that it be shorn of political references. . . .¹

Apart from the question of propriety of the action of the Chinese delegate, it is noteworthy that the presence of the Japanese delegate at the Commission made it possible for him to defend the position of his country.

Compared with the recent activities of the Japanese representative at the Committee the Japanese public opinion is rather slow in taking interest in the Committee's work. According to Mr. Sato's statement at last year's session it "was due to the psychology of the people and of the officials." The word "smuggling" had never existed in the Japanese language

until Japan opened her door to the outside world. Japanese public opinion did not yet understand why drugs of which the manufacture was begun in Japan ten years previously, were considered so dangerous. It was not yet educated to the degree sufficient to permit it to condemn drugs. The Government was doing its best but it found it difficult to pass adequate legislation against drugs, for it had to pass through Parliament which was itself but a reflection of public opinion.²

¹ *New York Times*, Jan. 26, 1929.

² C. 328. M. 88, 1928, XI (O. C. 816), pp. 45-46.

THE PERMANENT MANDATES COMMISSION

The Permanent Mandates Commission was appointed by the Council on November 29, 1920,¹ in accordance with paragraph 9 of Article 22 of the Covenant: "A Permanent Commission shall be constituted to receive and examine the Annual Reports of the Mandatories, and to advise the Council in all matters relating to the observance of the Mandates."² The Permanent Mandates Commission consists of nine members, Belgian, British, Spanish, French, Italian, Japanese, Dutch, Portuguese and Swedish.³ By a resolution of the First Assembly one must be a woman to look after the interests of women and children in mandated states. All the members of the Commission are selected by the Council "for their personal merits and competence," not holding "any office which puts them in a position of direct dependence on their Governments."⁴ In addition the International Labour Organization sends an expert to the meetings of the Commission in an advisory capacity when the questions concerning labor are discussed. Besides these experts, the accredited representatives of the Mandatory Powers are invited to the meetings in order to give any explanations or supplementary information at the Commission's request in view of the fact that since the members of the Commission are intended to be independent of their Governments it is necessary for the Mandatory Powers to have their interest fairly represented through their own spokesmen. As provided for in paragraph 7 of Article 22 of the Covenant, the Mandatory Powers send their Annual Reports to the Commission. These Reports are examined

¹ C. 404 (I) m. 295 (I) 1921 (II) refers to Dec. 1, 1920.

² Paragraph 9, Article 22 of the Covenant.

³ The number increased to ten by the addition of Dr. Ludwig Kastl of Germany in Sept., 1927 *World Peace Foundation*, vol. xi, p. 175.

⁴ *1st Year Official Journal*, p. 87.

individually by the Commission in the presence of an accredited representative who has the right of discussion but not of voting. After the discussion the Commission decides on the wording of the observations on each report which are communicated to the accredited representatives in order that they may make comments. These comments are submitted to the Council together with the observations of the Commission whereby the Council sends the report to the Assembly and to the Mandatory Powers.¹

Japan's part at the Committee is twofold, namely, that a Japanese national is included as a member of the Commission and that her accredited representative is invited when the Japanese mandate is under consideration. The Japanese member as an expert is in no way responsible to his Government, for he is selected by the Council only for his "personal merits and competence." On the other hand, when the question of Japan's mandate is discussed the accredited representative is duly authorized by his Government to give any necessary explanations or information at the Commission's request by virtue of her being a Mandatory Power whose mandate was allotted by the decision of the Allied Supreme Council on May 7, 1919.

Reviewing the activity of the Japanese member at the Commission, the foremost and most obvious feature is his silence. He seldom discusses or makes comments, and is even reluctant to ask questions on the Reports of the Mandatory Powers which are examined carefully by the Commission. At the First and the Second Sessions his expression was confined to the Rules of Procedure. His silence was enhanced by his absence at the Fourth, the Fifth, and the Twelfth Sessions, while in the Sixth, the Seventh, and

¹ If the Commission is not unanimous the observations may be in the form of majority and minority reports. C. 404 (1) M. 295 (1), 1921 (11) *1st Year Official Journal*, no. 8, p. 87.

the Eight Sessions the Japanese member took no active share. During the remaining sessions he asked merely a few questions of general nature. The reason for this marked characteristic cannot be known except through inference. It may be due to the lack of time available for the Japanese member to gather information, for he has to spend a considerable length of time before he finally reaches Geneva, or again it may be due to the natural disposition of the Japanese.¹ However, it may be too hasty to conclude that his silence means indifference on the part of the Japanese delegation. On the contrary, when the advisability of holding a meeting twice a year was discussed the Japanese member

emphasized how difficult it would be for him to follow the discussions if he were only to be able to be present at one of the sessions. Further, quite apart from his own personal convenience, such a solution would result in depriving the Commission of the point of view of a Japanese colleague.²

Although the question of distance thus places Japan in an unfavorable position for cooperating with the Commission to a fuller extent, nevertheless it is regrettable that he has been unable to utilize his presence to better advantage.

Concerning the Annual Reports of the Japanese Government, the interesting feature is the improvement of the contents from year to year. This point may be proved from the following figures.³

¹ W. Rappard, *International Relations Viewed from Geneva* (New Haven, 1926), p. 203.

² A. 19, 1923, VI. July 20-Aug. 10, 1923, p. 189.

³ The Chairman, commenting on the Japanese Annual Report of the year of 1925, congratulated Japan on her cooperation saying that he "found that it was better drafted and presented than the preceding reports." C. 632. M. 248, 1926, VI, p. 35.

<i>Year</i>	<i>Number of pages</i>	<i>Illustrations</i>
1921	46	—
1922	26	—
1923	46	—
1924	76	8
1925	394	8
1926	170	8

The Annual Reports of the Japanese Government are carefully examined and discussed by the Commission at its sessions in the presence of the Japanese accredited representative, who is to answer the questions at the Commission's request and explain the position of his Government regarding the mandated territory.

Some of the problems at the Commission's sessions and on which the Japanese accredited representative had to answer were Education, Public Health, Industry, Labor, Economic Equality, etc., among which the last mentioned, the Economic Equality, was paid special attention, for the Japanese Government had made a declaration at one of the early sessions of the Council on its principle.¹ At one of the meetings of the Third Session of the Commission Sir F. Lugard asked the Japanese representative whether the Government of Japan which had once declared the justice of the principle of economic equality for the "C" Mandates was intending to apply it to the territory with which she was entrusted. The Japanese accredited representative explained that the Japanese declaration referred to by Sir F. Lugard "did not merely concern the question of economic equality but also the interpretation of Paragraph 6 of Article 22 of the Covenant." "On this point," however, he answered that "he was not authorized to make an official declaration."² M. Rappard explained that "the Japanese Govern-

¹ Cf. *supra*, pp. 109-111.

² *Minutes of the Third Session of the Permanent Mandates Commission*, A. 19, 1923, VI, pp. 83-84.

ment was in no way obliged to apply the principle of economic equality, since it was only bound by the terms of its mandate." "The only question," he continued, "was to know whether the Japanese Government freely applied, so far as it was concerned, a principle the justice of which it had proclaimed, or whether it confined itself to executing faithfully the terms of the mandate, which was all that it could be required by the League to do."¹ To this, however, the Japanese representative made no reply. At the Seventh Session in 1925 Mr. Rappard asked the Japanese representative whether or not the Members of the League of Nations enjoyed the same rights and privileges in the island of Yap as those of the United States. The Japanese representative answered that

the position of Members of the League would be governed by the most-favored-nation clause, which was valid between Japan and some thirty or forty States by virtue of commercial treaties. Countries would be on a footing of equality with the United States not owing to the fact they were members of the League of Nations, but owing to the fact that they had commercial agreements with the Japanese Government,

and he pointed out that "there were some States which did not apply their commercial agreements to their mandated territories or colonies. The Japanese Government in such cases would necessarily act according to the principle of reciprocity."²

Thus, it may be observed that although the Japanese representative is reluctant to explain the definite position of his Government with regard to the principle of economic equality, he is eager to show that his Government is endeavoring

¹ *Minutes of the Third Session of the Permanent Mandates Commission*, A. 19, 1923, VI, pp. 83-84.

² *Minutes of the Seventh Session of the Commission*, C. 648. M. 237, 1925, VI, C. P. M. 328, p. 84.

to apply that principle to her own mandated territory as far as circumstances permit.¹

THE PREPARATORY COMMISSION FOR THE
DISARMAMENT CONFERENCE

The Preparatory Commission for the Disarmament Conference was established by the Council of the League of Nations on September 26, 1925, in accordance with the Resolution of the Sixth Assembly.² It is composed of 1. Representatives of States Members of the Council, and 2. Representatives of countries chosen among those which by reason of their geographical situation, occupy a special position as regards the problem of disarmament and which are not otherwise represented on the Commission. In addition to this Commission there are Sub-Commission A, which is to advise the Commission on military, naval and air questions, and Sub-Commission B, which is to advise the Commission on non-military questions.

The duty of the Disarmament Commission is to draw definite draft proposals for the reduction of armaments, which are to be submitted to a future general disarmament conference contemplated by the League.

The Disarmament Commission has held five sessions when various views of different States concerned have been presented and debated and a number of agreements reached. It may be observed on the whole, however, that the chief

¹ For further references on "Economic Equality" see *Minutes of the Tenth Session of the Commission*, C. 632. M. 248, VI, p. 35; *Annual Report of the Japanese Government*, 1925, p. 96.

² See C. P. D. I. Documents of the Preparatory Commission for the Disarmament Conference, p. 5 for the Resolution of the Sixth Assembly; see also the report submitted to and adopted by the Council on March 18, 1926, IX (C. P. D. (a)), pp. 5-6; for a brief summary of the work of the Disarmament Commission and of other bodies preceding it see Senor de Madariaga, "The Preparation for the general Disarmament Conference," *Problems of Peace, op. cit.*, pp. 124-142.

achievement of the Commission is not with reference to the number of agreements, which are few and relatively unimportant, but it is the fact that the Commission has brought about a clearer understanding of the various points of view of the countries interested in disarmament, which is the prerequisite of any real success.¹

Japan by virtue of her membership in the Council has participated in the work of the Commission from its beginning. As the progress of the work of the Commission up to the present has gone little beyond letting the representatives of the countries in the disarmament problem express their views, the position taken by the Japanese representative is no more advanced than that taken by other countries. Without criticizing or defending such a position, some of the main points of the Japanese views with regard to the disarmament problem will henceforth be discussed.

Definition of Armaments

Japan is in favor of a broad and inclusive definition of "Armaments". With the representatives of Argentine, Belgium, Czechoslovakia, France, Italy, Poland, Roumania, and the Kingdom of the Serbs, Croats, Slovenes, the Japanese representative declared in part that:

From a technical point of view, the conduct of modern war demands a combination of all the means of action at a country's disposal. A definition of armaments would therefore be obsolete and incomplete if it did not fully take into account the general resources at the disposal of each country, even if these resources in themselves were not armaments properly so called.²

Such a view is diametrically opposed to the American idea on armaments, for the delegation of the United States

¹ Madariaga, *Problems of Peace, op. cit.*, vol. i, pp. 141-42.

² C. 739. M. 278, 1926, IX, p. 21.

declared in part that "It has further maintained that any complicated definition or an extension of the generally accepted meaning of the term 'armaments' would hinder progress toward the limitation and reduction of armaments." The representatives of the British Empire, Bulgaria, Finland, Germany, the Netherlands, Spain, Sweden are also in favor of the restricted definition of armaments.¹

As to why Japan was in favor of a broad and inclusive definition of "armaments" there is no available official explanation. However, in view of the well-known fact that Japan is lacking in war materials, especially in iron, oil and cotton, and therefore must depend for the supply of these materials on foreign products, she must no doubt have thought it wise to define "armaments" in such a way as to give due consideration for her weakness, namely: the lack of war materials. If the reduction of armaments were to proceed without taking into account "the general resources at the disposal of each country" and with the assumption of "the generally accepted meaning of the term armaments," the necessary result would be that Japan's "armaments properly so called" alone—in which she is relatively superior—would be reduced while the general resources—in which she is weak and other countries are strong—would be left untouched in the disarmament treaty. Then she would be placed in a most disadvantageous position with respect to her national defense. If, on the other hand, "armaments" is defined in consideration of "the general resources at the disposal of each country," it would be possible that Japan by reason of her inferior general resources might be allowed to maintain a larger armament (properly so called) in order to neutralize her weakness in the general resources.

¹ C. 739. M. 278, 1926, IX, p. 19.

General Principle

With regard to the general principle of disarmament, Japan takes the position that the total armaments permissible for each country should be fixed by that country.¹ She is vigorously opposed to the idea that the maximum armaments of a country should be determined by the outsiders without her own consent.

Military Force

As to the reduction and limitation of military forces, Japan is generally in agreement with France and other Powers in the continent of Europe which have relatively large and effective armies. Such a position of Japan is well expressed in her attitude regarding the problems of trained reserves and the period of service.

At the seventh public meeting of the Third Session of the Commission on March 28, 1927, when the British proposal intending to limit the number of the trained reserves and persons who may "be available for dispatch to the fighting line" had been under discussion, Mr. Sato, the Japanese representative, declared that "this question (that of trained reserves) touches the very foundation of my country's system of national defence, and for that I should like to explain to you my Government's attitude toward this question."² After having explained the immense difficulties which would arise from an attempt to limit the number of trained reserves, the Japanese representative pointed out that if "a country possesses a permanent military organization, there must necessarily exist trained reserves, the number of which will vary according to the system adopted by each country. The choice of a system of military organization is dictated by the special exigencies of each country as regards national

¹ C. 310. M. 109, 1927, IX, p. 15.

² C. 310. M. 109, 1927, IX, pp. 51-52.

defence." With regard to this permanent military organization, he said that "My country, for example, adopted the system of compulsory service sixty years ago, and it has given good results from the point of view of national defence. We should naturally find it difficult to change this system with the object of abolishing trained reserves."¹ Such point of view of Japan is to a large extent in the line of the well-known position of France and other Powers in the continent of Europe whose national defence largely depends on their armies.

On the question of the period of service, the Japanese view is equally clear and illustrative of their particular geographical and other physical circumstances. At the twelfth meeting of the Third Session on March 31, 1927 the Japanese representative said:

The period of service is determined by circumstances peculiar to each country and in particular by the physique of the population, the intensity of the training, the difference between civil life and barrack life, the conception of national defence, etc. For the above reasons, it is very difficult to make any comparisons on this question which do justice to all the different States; yet this is a necessary preliminary if we are to arrive at a fair arrangement on the period of service.²

Referring to the tendency that the pre-regimental and military training outside the regular army is carried on more and more extensively in the various countries, the Japanese representative said that "this fact often makes any regulation of the period of active service valueless. Furthermore, this pre-regimental or extra-regimental training is not given in a uniform fashion in different countries, and any comparison of the period of active service in different States is

¹ C. 310. M. 109, 1927, IX, pp. 51-52.

² *Ibid.*, pp. 100-101.

very complicated." After having explained other difficulties which would arise from an attempt to fix the period of service for all countries, he concluded that

in the opinion of our delegation, it would be preferable to leave it to the free judgment of each country to settle its own period of service. Thus we shall encourage the present tendency of countries to reduce the period of service on their own initiative, while also taking into consideration the particular circumstances of each country.¹

Thus it seems that there is little evidence that the Japanese Government will modify in the near future its policy with regard to compulsory military service with adequate reservists behind it.²

Air Force

The Japanese view on the limitation of air force was expressed at a session of the Commission on April 1, 1927. The Japanese delegate first reiterated the view of the Japanese experts at the Sub-Commission A and said that "the view of my Government is still that the limitation of air armaments will be brought about by a general limitation of air effectives present with the colours in time of peace" while admitting that such was not the best method of limit-

¹ C. 310. M. 109, 1927, IX, pp. 100-101.

² The importance of the statement of the Japanese delegate that "the difference between the civil life and the barrack life" should be taken into account should not be over-looked. Japan being an oriental country the majority of the population are unaccustomed to the western way of living on which the Japanese military training depends. For instance, it will take a great deal of time and effort to teach the recruits who come from the peasant class how to wear the western shoes or the western uniforms. The United States could train a large number of effective fighting forces after she had declared war on Germany. But such would be an impossibility for Japan because the difference between the civil and the barrack life in Japan is so great that she must allow an adequate period for the training of soldiers if her national defense is to be effective.

ing air forces, and also that "it is absolutely just to take into consideration the development of civil aviation."¹

The reason why the Japanese demanded that the development of civil aviation should be taken into consideration is plain in view of the fact that Japan's civil aviation is still in infancy. But it is not so clear why they preferred a general limitation of air effectives to that of air crafts as advocated by the British.² Curiously enough, the Japanese were in this case on the side not only of France but the United States, where the general condition of aviation is very different from Japan.

Naval Force

Some of the major problems regarding the limitation of naval forces which the Commission discussed and in which the Japanese delegate expressed the position of his country were first with reference to the limitation of air effectives, and second with regard to the question whether the limitation should be placed on the total tonnage of all the vessels available for warlike purposes or on the tonnage by classes of vessels.

Regarding the first problem, the Japanese delegate strongly supported the view expressed by the delegates of the British Empire and the United States. At the eighteenth meeting on April 5, 1927 he said: "naval effectives consist for the most part of men specially qualified for certain kinds of work. Hence the question of quality outweighs that of numbers, and numbers of themselves do not constitute an indispensable factor in naval power." Thus he contended that "it was superfluous to suggest that limitation should be applied to naval effectives."³ Such view was of course

¹ 310. M. 109, 1927, IX, pp. 120, 146.

² *Ibid.*, p. 119.

³ *Ibid.*, p. 157.

opposed by France and other small naval powers whose national security depends chiefly on their armies and therefore fear that other countries who are in possession of larger navies might increase their actual land forces by training their naval personnels. Later a compromise was reached between these opposing views. The United States and the British Empire conceded the limitation of naval effectives on two conditions — first, that such limitation be generally accepted, and second, that a satisfactory agreement be reached respecting the limitation of warships. Japan, however, still adhered to her original view, namely, that no limitation should be imposed on the naval effectives. It was only at the thirty-sixth meeting on April 23, just before the third session of the Commission was over, that the Japanese Government instructed her delegate to consent to the limitation of naval effectives on virtually the same conditions as the British and the Americans had proposed. But as the Commission was ready to adjourn the Japanese concession did not produce results.¹

With regard to the second problem, namely whether the limitation should be placed on the total tonnage of all vessels which the French advocate or the tonnage by classes of vessels which the British advocate, Japan's view was expressed by her delegate at the nineteenth meeting on April 5, 1927. He began with criticizing the French draft by saying that

That draft does not even draw a distinction between surface ships and submarines, which, from a military point of view, should be clearly distinguished. . . . Aircraft-carriers are designed to carry air craft and to be used as bases for air operations; if therefore, a clear distinction were not made in the case of this class of ships, it would be impossible accurately to gauge the extent of the limitation undertaken in the air forces at-

¹ 310. M. 109, 1927, IX, p. 323.

tached to the navy and distributed among its various branches. There would be a gain in clearness if a distinction were established between different classes of ships.

Regarding the political aspect of the French draft, the Japanese delegate considers that "this system, by thus giving rise to a feeling of instability, would run counter to the purpose we have in view, which is to create a feeling of security throughout the world."

Turning to the British draft, he continues: ". . . There is in particular one important point emphasized by Lord Cecil . . . to which we cannot agree. The British draft provides for limitation not only of the tonnage of ships by classes and by units but also of the total number of ships in each class. . . ." Then he proposed the plan of his own country by saying that "Our method would be to base reduction on a limitation of the total tonnage of each class and a limitation of the maximum unit tonnage in each class, leaving every country free to decide how many ships it would have in each class. . . ." ¹

Thus the position of Japan regarding this problem is different either from that of the British Empire or that of France. Japan, as a great naval power, like the British Empire and the United States, preferred limitation of tonnage by classes of vessels so that she may continue her present status of 5 : 5 : 3 with respect to capital ships which she considers adequate for her national defense. On the other hand, in view of the more or less restricted sphere of her potential naval activities and probably in consideration of the limitation of her treasury, Japan, like France, desires the exemption of small-type submarines from limitation so that she may adequately safeguard her home waters against potential enemies who possess greater navies than herself. Therefore,

¹ 310. M. 109, 1927, IX, p. 167.

while she was in favor of the plan for limiting total tonnage of each class and the limitation of the maximum unit tonnage in each class, she desires "leaving every country free to decide how many ships it would have in each class. . . ." ¹ This is in harmony with the position she took at the Tripartite Naval Conference when she demanded that all submarines below 700 tons should be exempted from limitation as against the position of Great Britain who proposed that submarines should be divided into two classes, the larger type employed for offensive purposes and the smaller for defensive purposes, and that both classes of submarines should be limited in number. ²

Supervision

Regarding the question of the supervision of armaments by an international body which France and some other Powers in the continent of Europe consider necessary for the enforcement of disarmament, the position of Japan is in sympathy with the British Empire and the United States which favor the minimum interference with their internal affairs.

At the twenty-eighth meeting on April 12, 1927 the Japanese delegate said that "the Japanese Government always considered it essential that the Disarmament Convention should be based on the good faith of the contracting parties, and that the idea of supervision should be rejected." However, he added that his Government could consent to the establishment of a supervisory commission under the League of Nations to assist in the exchange of information and facilitate its publication. ³

As these facts indicate, the attitude of the Japanese Gov-

¹ 310. M. 109, 1927, IX, p. 167.

² *Records of the Conference for Limitation of Naval Armaments*, Geneva, 1927, *passim*.

³ 310. M. 109, 1927, IX, p. 282.

ernment with regard to disarmament, as far as expressed in the proceedings of the Preparatory Commission for the Disarmament Conference, reflects her political and geographical status; and there is little evidence that Japan is seriously attempting to bring about agreements among other Powers. However, no blame can be placed upon her alone, for no other Powers have shown any intention to make a substantial change of the position they sustain and which they consider vital for their national defence, and there are still immense difficulties before satisfactory agreements be reached. If such difficulties appear greater with respect to the attitude of Japan than that of other Great Powers, it is due to the fact that Japan's national defence depends both on an army and a navy, and therefore she is unwilling to make concessions in either branch of her armaments. Thus, she naturally takes the side of France and other military Powers in the continent of Europe when land force is under discussion while she is to a certain extent in agreement with the British Empire and the United States when naval force is under discussion.¹

CONCLUSION

We have considered the activities of the Japanese members in the Opium Committee, the Mandates Commission and the Disarmament Commission with the object of studying the position of Japan in the most interesting and probably the most successful experiment by the League, namely the Committee system. Inasmuch as these Committees are different in nature, purpose and the degree of success in their

¹ After having found himself in disagreement with the delegate of the British Empire with regard to land and air forces the Japanese delegate said "I regret very much to be in disagreement with Lord Cecil, but presently, when we come to discuss the naval problem, I assure you that I shall be at Lord Cecil's side up to a certain point." 310. M. 109, 1927, p. 120.

work the part played by the Japanese members therein varies accordingly.

In discussing the Opium Committee we have observed a notable change which took place in the attitude of the Japanese representatives, i. e. from defensive and inactive to cooperative and active. On the other hand, at the Mandates Commission the situation was different where the attitude of the Japanese members has always been inactive, while at the Disarmament Commission we have observed the attitude of the Japanese representatives as unyielding as, or possibly more unyielding than, that of other countries.

Why is there such difference in the attitude of the Japanese members as expressed in the various Committees? It is partly due to the personality and qualifications of the Japanese members represented in the Committees and partly to the nature of these respective bodies, namely whether they are appointed by their governments or not. Thus regarding the Opium Committee, the Japanese were becoming more active and cooperative since the sixth session in 1924 when the Japanese Government was represented by Dr. Tsurumi, a medical expert and vice-president of the Health Committee. Being a medical man, he is familiar with the nature of the problem from a scientific point of view as well as the position of his Government toward this problem. Therefore he speaks not only as a Government representative but as a medical expert. Not infrequently he expressed "his own opinion" as distinct from the opinion of his Government.¹ Thus his contributions may be observed through his medical

¹ In replying to the question of the British representative "whether the Japanese Government considered it possible to dispense with heroin in medical practice" Dr. Tsurumi said that his Government had not decided on this matter but he expressed his own opinion as a medical man that "it was not possible to dispense with heroin in medical practice." C. 397. M. 146, 1924, XI, p. 9. For other evidence, *ibid.*, C. 603. M. 192, 1925, XI, *passim*.

knowledge and in his capacity as a Government representative.¹

On the other hand Dr. Sugimura, who was present at the eighth session, is, unlike Dr. Tsurumi, a jurist and a diplomat having a great influence in his home government. Naturally his interest lies mainly in legal and political aspects of the opium problem. Although he attended only one session his contribution was a valuable one and it may be fair to say that the Japanese cooperation was most conspicuous when Dr. Sugimura was present. At the last three sessions Japan was represented by Mr. Sato, who is a professional diplomat. Being a professional diplomat, he has the ability to justify and press the views of his Government more than any of his predecessors. Thus the active cooperation of the Japanese Government depends upon the type of the representative they send. Although the different representatives sent by the Japanese Government make their peculiar contributions they have one common element, that is, they are all acquainted with the League machinery and that they live for most of their time in Geneva. Dr. Sugimura's familiarity with the League has been explained elsewhere. Dr. Tsurumi, who is vice-president of the Health Committee, spends a great deal of his time in Geneva. Mr. Sato, being chief of the Japanese Office of the League of Nations, lives either in Geneva or Paris. Therefore, although their service to the Committee varies, they are in a favorable situation to render effective contributions to the work of the Committee. This may explain why the part played by Japan in the Opium Committee is more active than in other committees, and this may also explain why the Japanese member of the Mandates Commission has not been very active. The members of the latter Commission are to be appointed "for their personal merits and competence" and they are not to hold "any office

¹ Cf. *supra*, p. 128.

which puts them in a position of direct dependency on the Governments." Such qualification is wise in so far as it makes it possible to make the Commission independent of the influence of its members' Governments. On the other hand, the qualification brings an unfortunate result to Japan. Because of it Japan cannot send a diplomat residing in Europe. Since it is difficult to find a competent person other than a diplomat in Europe, she must send a man from Japan. However, as a journey from Tokio to Geneva takes at least four or five weeks and one session of the Mandates Commission lasts about two weeks, the Japanese member of the Commission must allow at least twenty-four weeks in order to attend every session. This means that he must be away from his regular profession nearly one-half of a year. Such a long absence must no doubt be a handicap to him. Moreover since he is neither a diplomat nor a Secretariat official he is not in a position to familiarize himself with the atmosphere of the League, which is necessary for an effective service. Under such unfavorable circumstances we cannot expect a maximum efficiency from the Japanese member. Therefore, without criticizing the present constitution of the Mandates Commission, it may be said that the relative inactivity of the Japanese member is due to the method of the appointment of the Commission.

The inflexibility of the attitude of the Japanese delegates at the Disarmament Commission is by no means peculiar to the Japanese. While the world is still insecure, no Power, or at least no Great Power, whose security depends upon her arms, would be willing to abandon a substantial portion of her armaments. The British can freely insist on the limitation of trained reservists, because the security of their country depends not on their army but on their navy. The French do not hesitate to compromise with regard to capital ships because their country is not in urgent need of that type

of vessels. Japan's security depends, at least in the opinion of the Government, not on one branch of her armaments but on both, so that each must be strong. Thus, neither the freedom to advocate the reduction of land forces which is allowed to the British nor that of naval forces which the French enjoy, does the Japanese delegate possess. Therefore in the last analysis the whole problem rests on the question of security. Inasmuch as the Disarmament Commission has not solved the fundamental question, namely security, we cannot expect a satisfactory agreement on the reduction of armaments. The attitude of the Japanese delegate is in one sense a reflection of this limitation of the Commission. However, such consideration would not completely explain the attitude of the Japanese. For instance, the sense of insecurity would not alone explain why the Japanese delegate retained the reservation concerning the naval effectives even after the British and the Americans had withdrawn.¹ In view of the fact that Japan is strong both in her army and navy, she would have been in the best position to advocate the limitation of naval effectives. But it happened that she was the most obstinate of all those who were opposed to it. Therefore there must be some other reason than that of security which explains the attitude of the Japanese delegate. An explanation may be found in the attitude of the Japanese Government toward the Disarmament Commission. They do not have much confidence in the effectiveness of the Disarmament Commission and would prefer a limited disarmament conference such as the Washington Conference for the reduction of naval armaments.² This is why the Japanese Government does not send a first-rate statesman to the Commission. Although Mr. Sato is the Chief of the Japanese

¹ Cf. *supra*, p. 145.

² Cf. *supra*, pp. 96-97.

Office of the League of Nations and is an able diplomat, he is by no means equal to Lord Cecil or Paul Bancour in prestige and influence on home Governments. Moreover, unlike the delegates of European countries, he cannot, due to the geographical limitation, return home frequently in order to inform his Government of the proceedings of the session and recommend them to adopt new policies. However, a different aspect appears with regard to the Japanese attitude at the Tripartite Naval Conference in 1927. At that last conference Japan was represented by the distinguished statesmen, Viscount Saito, former Governor-General of Korea and slated for the premier's office more than once, and Viscount Ishii, former Minister for Foreign Affairs and one of the most experienced diplomats in Japan. Their attitude at the Conference was very different from that of the Japanese delegate at the Disarmament Commission. They assumed the rôle of mediators between the British and the Americans. They even made several important concessions in order to make the Conference successful.¹ The reason why they could use such discretion may be found in the fact that, because they are influential persons and are familiar with the position of the Government they could go to the last limitation to which the Japanese Government could consent.

Therefore, if Viscount Saito or Viscount Ishii had been present at the Disarmament Commission, they would have made a greater contribution than Mr. Sato. But it is obviously impossible for the Japanese Government to send such persons every year to a Commission whose immediate success is not expected, for among many other inconveniences the Japanese Government must pay the high expense of sending them from home.

¹ *Records of the Conference, op. cit., passim*; J. C. Shillock, "The Post War Movement to Reduce Naval Armaments," *International Conciliation* (New York, 1928), no. 245, pp. 619-639.

Therefore, the reason for the inflexibility of the attitude of the Japanese delegate at the Disarmament Commission may be attributed not only to the fact that the Disarmament Commission has not solved the fundamental question of security but also to the fact that Japan by reason of her geographical position cannot send more influential men to the Commission.

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PART III

CHAPTER VI

JAPAN'S INTEREST IN THE LEAGUE

As the activities of Japan in the various organs of the League of Nations have been reviewed in the preceding chapters the remaining pages will be devoted to the consideration of the factors which hold Japan in the League.

It may be accepted that League membership brings numerous disadvantages as well as advantages to Japan and that Japan stays in the League because, at least in her own judgment, the advantages are greater than disadvantages. Therefore, it seems worthwhile to mention first some of the disadvantages and then proceed to the advantages in order to discover the factors which keep Japan in the League.

The acceptance of the League membership means to Japan the acceptance of tremendous obligations. She is obliged under the Covenant to abandon a large portion of the freedom of action which she previously enjoyed, such as that of resorting to war whenever she sees it necessary or advisable in carrying out her national policies or that of forcefully annexing a territory which she covets or that of making a secret alliance with a Power with whom she has a common desire, etc. She may occasionally find herself a defendant in the "court of public opinion" against the accusations of a nation inferior to herself in power and prestige. She may be and has been called upon from time to time to intervene in quarrels in which she has no concern. There is even a

danger, remote as it may seem at present, that she might be drawn into a war in the cause of which she has little or no share.

Beside these obligations which are obviously uninviting, there are numerous other disadvantages, or at least cases where advantages are not evident. Security is a dominating factor in determining a nation's action. Japan seeks it with no less eagerness than other nations. But by reason of her geographical position Japan's security is not threatened at present to such an extent as to regard the League as a necessity. For instance, Japan is not in a position to fear a possible revenge of the former enemies as France and her Allies are. Moreover, there is every reason to contend that Japan's security depends more on her arms than Article 10 of the Covenant. In this respect, the most obvious advantage of being a League Member as provided for in the Covenant cannot be applied to Japan.

The reduction of armaments is extremely desirable for Japan in view of her limited treasury. However, as discussed in the previous chapters, the League's attempt to reduce armaments has not been successful and consequently Japan has not derived any benefit from the League on this score. The most effective reduction of armaments as far as Japan is concerned was the Washington treaty for the limitation of naval armaments, which took place definitely outside the League.

The pacific settlement of international disputes, the means for which the Covenant provides and which the League has frequently resorted to, is a most outstanding achievement of the League, and this may be regarded by some countries as a strong justification for retaining their seats in the League. In the case of Japan, she has had frequent quarrels with China and probably will have more in the future. However, would she not be freer to deal with her weaker neigh-

bor if she were not a Member of the League? Her membership in the League deprives her of at least two instruments which she has utilized previously, namely ultimatum and secret treaties. Although she has not radically changed her policy toward China since the creation of the League, the League, and especially her membership therein, is no doubt an obstacle to the freedom of her action. Two Great Powers with whom she has had serious difficulties and against whom she may need the League's aid are Russia and the United States. However both of these countries being outside the League, Japan cannot expect an effective intervention from the League.

The League membership means a great financial burden to Japan. The financial share of the 1928 budget of the League allocated for Japan is sixty units, about \$291,000, as large as that of Italy and next only to that of Great Britain, France and Germany. While this alone is a considerable sacrifice to the Japanese budget, there are the expenses for sustaining the Japanese Office of the League of Nations and the International Labor Office, the traveling expenses of the delegates to the League meetings and other meetings held under the auspices of the League, the expenses for wireless, cable and other communications, etc. Although the total amount of these expenses cannot be estimated, it is undeniable that the League membership imposes a large financial burden on the Japanese treasury.

Aside from these difficulties there are a few conditions which place Japan in a disadvantageous position compared with the European Members. Because of her geographical position Japan cannot send her premier or foreign minister to the Council as other Great Powers in Europe are doing. Although she is at present represented by a very able jurist and diplomat, Mr. Adatci, it would be far more advantageous to Japan if a "minister responsible for Japanese

foreign affairs might undertake a journey to Europe from time to time,"¹ as Mr. Adatci himself hoped. There is also a linguistic difficulty. It is possible that the Japanese Government is often prevented from sending its most able statesmen to Geneva because they are not familiar with French and English. Although they can speak in Japanese at League meetings, which can be translated into the official languages, no one can deny that such is not a very effective way to convey one's thought.²

It has been already observed that the Japanese delegates at the Peace Conference in 1919 were called "silent partners". Although the subsequent activities of the Japanese in the League's meetings have been modified, it still remains that the Japanese are not gifted with eloquence. Professor Rappard, a keen observer of the League as well as once a high official of the Secretariat and now a member of the Permanent Mandates Commission, commented that "I do not feel that I know, nor that I understand the Japanese. Never having visited their country, I can judge them only by what they say, and they say uncommonly little," and he went on to say that "I am struck with the extreme difficulty which all Japanese experience in learning and in speaking any of our Western languages."³ Again, Dr. Nitobe, former Under-Secretary-General, remarked that "reticent by training, and handicapped by the very meager linguistic talent vouchsafed to them by nature, the Japanese cannot

¹ Cf. *supra*, p. 50.

² "Simultaneous translation" has been recently adopted at the League and is said to be very useful for the translator can easily translate while he is listening to a speech. But translating Japanese into English, French or other European languages while listening to a speech is a difficult task even for a good translator because the Japanese language has a totally different structure.

³ Rappard, *International Relations Viewed from Geneva*, *op. cit.*, pp. 202-203.

win the confidence of nations by word of mouth. How inferior we are in this respect to the Chinese!”¹

Although these considerations are by no means exhaustive, they may be sufficient to show that Japan is paying a high price for her League membership. However, the benefits which she derives from retaining her membership in the League are so great that she willingly sacrifices these disadvantages.

PUBLICITY VALUE

Publicity is one of the most outstanding features of the League's procedure which distinguishes it from the old diplomacy. Through publicity the nations in the League advance the claims which they feel justified in presenting and complaining of the wrongs which they suffer. Needless to say that publicity brings disadvantages as well as advantages to the nations. However as long as publicity is an effective weapon employed by the League Members those who cannot use it are placed in a disadvantageous position. Therefore it is necessary for Japan to remain in the League if she wishes to express her national aspirations or defend herself against the accusations of the other nations; for it is the League that is said to be “the court of the public opinion of the world”.² The action taken by the Japanese Government at the time of the Tsinan-Fu incident in 1928 will illustrate this point.

Soon after the clash between the Japanese and Chinese troops at Tsinan-Fu had taken place the Nanking Nationalist Government forwarded a note to the League of Nations presenting China's side of the case. Its allegation was “the hostilities committed there which amount to acts of war

¹ *International Gleaning from Japan*, published by the League of Nations Association of Japan, vol. iii, no. 10 and 11, Tokio, Japan, Oct., Nov., 1927, pp. 1, 7.

² *Woodrow Wilson's Case for the League of Nations* (Princeton, 1923), pp. 59-60.

against China ".¹ On May 27, 1928 Mr. Adatci, the Japanese Representative to the League, sent a letter to the Secretary-General with the memorandum of the Japanese Government containing a detailed explanation of the incidents at Tsinan-Fu. It has been said that the reaction to the Japanese memorandum was favorable and the League circles were "impressed" by it.²

Without the League Japan could have made publicity for defending her action at Tsinan-Fu, but it is improbable that she could have made such an effective answer to China and also impressed the general public in such a simple way had she not been a Member of the League and familiar with its way of doing things.

Thus, as Dr. Nitobe says "the League has for us a publicity value of the first order and as far as Japan is concerned, the work of publicity by the League is a matter of great advantage."³

RECOGNITION

Another factor which holds Japan in the League may be found in the fact that Japan through her permanent seat in the Council can secure more complete recognition as a Great Power.

The desire for recognition is one of the prime motives which guide the political actions of nations. To this Japan is not an exception. With this motive Japan has striven to attain her present status as a Great Power. But due to her geographical position as well as her marked racial and linguistic differences Japan has not had complete recognition as Great Powers in Europe, and therefore must find a means by

¹ *New York Times*, May 12, 1928.

² *New York Times*, May 30, 1928; *9th Year Official Journal*, pp. 792-795.

³ *International Gleaning from Japan*, published by the League of Nations Association of Japan, vol. iii, no. 10 and 11, Tokio, Japan, Oct. and Nov., 1927, pp. 1, 7.

which she can win fuller recognition. Europe is the center of world politics, where the majority of the most active nations of the world are concentrated and where great political dramas are played. Whatever happens in Europe is a matter of world interest. Therefore, to take part in European affairs is to take part in world politics. Although Japan would remain a Great Power in the Far East within or without the League it is doubtful if the time would ever come when her voice would be heard outside the region of the Far East, had she not had a seat in the Council.

Through her permanent Membership in the Council Japan can always take part in the discussion of any international question of which the League takes notice, whether such question arises in Asia, Europe or America. It has already been explained elsewhere how Japan is actively participating in European matters.¹ Inasmuch as the League's political activities have not been extended much further, Japan's part is accordingly confined. But the time will come, not in the remote future, when the sphere of the League's political activities will be extended further and with it Japan's part will be enlarged. The recent crisis between Bolivia and Paraguay is an indication of this tendency. When the League took notice of this crisis, Mr. Adatci, Japanese Representative to the Council, took an active part with M. Briand and Sir Austin Chamberlain in the important discussion as to what policy the League should adopt toward this delicate problem. Mr. Adatci's opinion was, like that of the delegates of other Great Powers that the League should avoid "even an appearance of competing with any machinery which already exists on the North and South American Continents for meeting just such an emergency".² This fact suggests many things. Mr. Adatci could have insisted on more active League inter-

¹ Cf. *supra*, p. 97-109.

² *New York Times*, Dec. 12, 1928.

vention; or he could have prevented the Council from doing so even if other delegates had favored it; or he might have been appointed Rapporteur to investigate the matter as he has been in European questions if the dispute had formally been submitted to the Council. However more important and certain is the implication that Japan's voice was actually heard in a purely American question. Such would have been inconceivable had she not been represented in the Council of the League.

Thus the opportunity for more complete recognition is one of the strongest interests which keep Japan in the League.

RACIAL EQUALITY

The last and perhaps the strongest reason for Japan in retaining her Membership in the League may be found in her unconcealed interest in the question of racial equality. It should be remembered that the Japanese delegate at the Peace Conference made a most strenuous effort for an official recognition of the principle of racial equality by the League, and that after the failure of such attempt he declared that his Government "will continue in their insistence for the adoption of the principle by the League in future".¹

The subsequent action of Japan proves the sincerity of this declaration. When Japan consented to the terms of "C" Mandates after an unsuccessful attempt to have the principle of economic equality extended to that class of the Mandates the Japanese representative declared that such a consent "should not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous treatment in the Mandated territories".²

Although the Japanese Government has not made an offi-

¹ Cf. *supra*, p. 34.

² Cf. *supra*, pp. 109-111.

cial explanation as to whether the rights claimed for the Japanese subjects in the above declaration was on the ground of the interpretation of Article 22 of the Covenant or on general international morality, it is worthwhile to observe that the Japanese accredited representative at the Mandates Commission has not acquiesced in the theory that "C" Mandatory Powers are not obliged to apply the principle of economic equality in their Mandated territories, and that the Japanese representative is extremely anxious to impress on the Mandates Commission that his Government is observing this principle with respect to the territory under the Japanese Mandate.¹ In view of the fact that the creation of "C" Mandates was partly due to the established policy of Australia regarding the immigration of the Orientals it should be noted that there is a close connection between the racial equality proposal and the declaration for economic equality for "C" Mandates.²

We have also observed in discussing Japan's part in the economic question dealt with by the Assembly that "the Japanese delegation had taken an active part" in the question of the treatment of foreign nationals.³ One can hardly fail to note a striking similarity not only in principle but also in wording between this and the racial equality proposal which reads in part "the equality of nations and the just treatment of their nationals". Still more dramatic was the Japanese amendment regarding the so-called "domestic questions" in the Geneva Protocol.⁴ In that case Japan made a most determined struggle to keep "domestic questions" as a possible issue for the League to consider. "Domestic questions"

¹ Cf. *supra*, pp. 136-138.

² Parker T. Moon, *Imperialism and World Politics* (New York, 1926), pp. 482, 502-503.

³ Cf. *supra*, p. 59.

⁴ Cf. *supra*, pp. 64-75.

is an inclusive and ambiguous term. It may mean several things; it may or may not include immigration questions, tariff questions, the treatment of foreign nationals, nationality questions etc. Whatever it may mean it is certain that it includes the questions arising from the discriminatory treatment of Japanese nationals abroad on account of race. Apart from the complicated question of labor and overpopulation which have been often associated with the Japanese problem, Japan's resentment over the fact that her nationals are discriminated against on account of race is obvious. In protesting against the discriminatory clause of the United States Immigration Act of 1924, Mr. Hanihara, Japanese Ambassador to the United States, said:

It is, perhaps, needless to state that international discriminations in any form and on any subject, even if based on purely economic reasons, are opposed to the principles of justice and fairness upon which the friendly intercourse between nations must, in its final analysis, depend. . . . Still more unwelcome are discriminations based on race.

While expressly stating that "It is needless to add that it is not the intention of the Japanese Government to question the sovereign right of any country to regulate immigration to its own territories", the same Ambassador also declared that

To Japan the question is not one of expediency, but of principle. To her the mere fact that a few hundreds or thousands of her nationals will or will not be admitted into the domains of other countries is immaterial, so long as no question of national susceptibilities is involved. The important question is whether Japan as a nation is or is not entitled to the proper respect and consideration of other nations.¹

¹ *World Peace Foundation*, vol. vi, 1924, pp. 361, 372.

With such deep dissatisfaction Japan naturally turns to the League of Nations for it is the League which is the "court of public opinion" where the complaints of all Member States are rightly heard. It is true that Japan does not expect the League to adopt the principle of racial equality in the near future and render its service for the protection of the Japanese from unjust treatment. However, it is equally possible that Japan by reason of her permanent seat in the Council and also with the support of the majority of small nations represented in the Assembly, can at least prevent the existing condition from becoming worse, or the time might come when she would assume the leadership of all non-European Members in challenging the honor of the Members who solemnly pledged themselves to maintain "open, just and honorable relations" between themselves.

The three reasons which warrant Japan in retaining her Membership in the League, have been discussed, namely the publicity value of the League, the desire for more complete recognition as a Great Power and racial equality. It should be borne in mind that these are not the only reasons which justify Japan's League Membership. There may be many others. It is very difficult to find out the exact motive of a man for his action. Still more difficult is it to seek the motive for a nation's action. However, the writer believes that a nation's prime motive can be discovered with approximate accuracy when that nation's action has been carefully observed and analyzed. With this point in mind the writer has attempted to study minutely the action of Japan in the League of Nations in order to seek the prime motive which led her to adhere to the League. In reviewing her action at the Peace Conference when the Covenant was drafted her active interest in the racial equality proposal was most conspicuous. At the Assembly likewise her delegate has consistently brought the same question to the attention of the Members,

presenting it in different forms according to the circumstances. At the Council her effort was concentrated on seizing an opportunity to secure more recognition as a Great Power. The chapter on the Committees and Commissions reveals the fact that she attaches a greater importance to the publicity value of the League than any other.

These interests of Japan are the reflections of the permanent, fundamental and uncontrollable conditions, namely, her natural linguistic difficulty, her geographical isolation and her racial difference. Because of her natural linguistic difficulty she must rely on some other means than "by word of mouth". "The League has for us a publicity value of the first order" for the League publishes all minutes of the sessions in English and French which are more intelligible than Japanese to most of the people. Because of her geographical isolation Japan must rely on her permanent seat in the Council in order to secure more complete recognition as a Great Power through her participation in world politics. Because of the prevailing discrimination against her people on account of the racial difference Japan seeks to utilize the League as a means by which the injustice can be remedied.

Can the League of Nations satisfactorily realize such desires of Japan? The answer can fairly be made by considering whether the League is a universal or local organization. If the League is a universal organization, Japan can find in the publicity work of the League an effective instrument for defending and promoting her national interests because there will be abundant opportunity for successful publicity for Japan. If the League is a universal organization, Japan can utilize her permanent seat in the Council to the fullest extent in order to secure more complete recognition as a Great Power because the more the League's authority, especially that of the Council, increases, the greater the opportunity for Japan for recognition will be. If the League is a universal

organization, Japan can advance her claim for racial equality in a more effective manner because a universal League is a step toward the ideal of the unity of mankind which necessarily precludes racial discrimination.

If, on the other hand, the League splits itself into several Leagues on a continental basis, none of the desires of Japan can be successfully realized, because in that case Japan's position would be isolated and consequently it would limit the field of publicity, imply incomplete recognition of Japan as a Great Power and the continuation of racial discrimination. Thus, the benefits which Japan expects from the League are conditioned by the degree of the universality of the League. It is interesting to observe in this connection how the Government and people of Japan are apprehensive of the possibility that the League might become a local organization or that it might split into several Leagues on a continental basis. The following examples evidence the accuracy of this statement.

At the eighth plenary meeting of the Seventh Assembly on September 10, 1926, Viscount Ishii having congratulated Germany on her entry into the League, said in part:

In general, groups formed on a continental basis or on the basis of religion or race are, in our opinion, by no means to be encouraged, since they would necessarily have a sectarian or regional tendency, however praiseworthy their original purpose. True world peace can only be achieved after every barrier erected upon continental, religious or racial consideration has been broken down.¹

Commenting on Brazil's withdrawal from the League "*the Osaka Asahi*," a leading newspaper in Japan, expressed a most pessimistic view in its editorial by saying that

¹ *Records of the Seventh Assembly, Plenary Meetings*, pp. 58-59.

Brazil's withdrawal from the League of Nations will expedite the formation of an American League of Nations, as is evident from a resolution adopted in the Pan-American Congress now in session in Panama. In the event of this resolution being carried out, the League of Nations will become an organization for Europe only, or probably the Asiatic members of the League will follow the example set by the American States. The League of Nations will thus lose its *raison d'être* entirely.

This is nevertheless only a matter of course. The Peace Protocol once agreed upon became local on account of the Locarno Pact which was for Europe only, and Disarmament too is likely to become local. The world will return to the old order when nations used to group together in order to maintain a balance of power, one group against another, each ready to fight at any time.¹

The League of Nations Association of Japan also expressed the same view. It adopted the following resolution:²

While admitting the technical possibility of organizing some kind of a local or continental league within the League of Nations, the League of Nations Association of Japan cannot acquiesce in such organization, provided that it creates, in respect of the countries concerned, such rights and obligations as are directly in conflict with those already existing by the Covenant of the League of Nations, or calculated to lead to racial or economic estrangement or to produce discord among nations challenging the very authority of the League of Nations. . . .

The same apprehension was expressed by Dr. Juichi Soyeda, member of the House of Peers and Vice-President of the League of Nations Association of Japan, in his speech at the reconvened session of the House of Peers in 1928. After reviewing the tendency that nations are forming several regional groups he said:

¹ *International Gleaning*, *op. cit.*, July 31, 1926, vol. iii, no. 7, pp. i-5.

² *International Gleaning from Japan*, *op. cit.*, vol. iii, p. 2.

I have taken these groups simply to point out that it is for us of Japan to pay close attention to these facts and see faithfully and loyally that the League will not suffer from divided interests or regionalism. Fortunately, Japan has come to be known favorably for her consistent and loyal stand in the cause of justice and humanity. We might congratulate ourselves upon the universal recognition that Japan means disinterested impartiality.¹

Although these are only a few of many examples they are sufficient to demonstrate the fact that the Government and people of Japan have a real anxiety as to the possibility that the League might become a local or divided organization, and conversely that they are sincerely desirous of a universal and undivided League. Therefore, one may safely draw the conclusion that the special interests of Japan are closely connected with the question as to whether the League is to be a local organization or the true "general association of nations" which its creators intended.

¹ *International Gleaning from Japan, op. cit.*, vol. iv, no. 1, Jan., 1928, pp. 2, 5.

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